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2. A plaintiff, who appealed from an award of arbitrators in her favor, and obtained a verdict for the same sum, is entitled to full costs. *Hilty* v. *Guthrie*, 90.

3. Henshaw *v.* Seiler, 2 Pearson, 112, not followed. *Id.*

4. Payment of the accrued costs is a condition precedent to the right of appeal from an award of arbitrators. *Morris* v. *Sickler*, 382.

5. An attorney fee is no part of the accrued costs which must be paid on an appeal. *Id.*

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1. It may be questioned whether a bare allegation of information and belief, unaccompanied by any statement of the facts or sources of the information or the grounds of belief, is sufficient in an affidavit upon which this writ is founded. *Goodman & Co.* v. *Sondheim*, 191.

2. An allegation "that said goods were bought under false and fraudulent misrepresentations," while not in the exact language of the act, does in substance charge that the debt was fraudulently contracted. *Id.*

3. More than one allegation of fraud may be included in the affidavit. *Id.*

4. An affidavit which refers to an annexed statement which sufficiently describes the kind of property and the dates when purchased, held to be good. *Id.*

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1. The finding of the facts of a case by an auditor cannot be disturbed, except for clear mistake or fraud. *Riddle* v. *Wilcraft et al.*, 429.

2. The costs of an audit are to be imposed according to the equities of the case. *Id.*

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BRIDGES.

1. When the foreman of the grand jury recommending the building of a county bridge, wa also one of the original petitioners, and it appears that the action of the grand jury was affected by that fact, the court will refuse their approval of the report. *In Re County Bridge*, 436.

BUILDING ASSOCIATION.

1. A building association was chartered under the act of 1859, and the by-laws contained the 6th section of that act, together with the proviso that the stockholders should sign an agreement "to abide by the provisions of the charter and by-laws." *Held*, that where a borrower seeks to take advantage of his omission to sign such agreement, the burden is upon him or his representatives to show that he did not sign such agreement. *Nicely's Estate*, 87.

2. A purchased stock in a building and loan association, and obtained a loan upon it, to secure which he gave a judgment note, which was entered of record. He, about five years afterwards, confessed judgment on an amicable *scire facias* on such judgment. After his death, his widow and a junior judgment creditor, alleging a defect in the charter, claimed that the association was only entitled to lawful interest. *Held*, that the judgment so confessed was conclusive in the Orphans' Court in a proceeding for distribution of a real estate fund. *Id.*

3. One who sues a building association as a withdrawing stockholder cannot recover the value of stock which he held, but only the money that he has actually paid in, less his proportion of expenses and losses. *Laurel Run Building Association* v. *Sperring*, 132.

4. Whether a stockholder can withdraw from the association after the maturity of his stock *quaere;* probably not. *Id.*

5. O'Rourke *v.* Building Association, 12 Norris, 308, followed. *Id.*

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BUILDING ASSOCIATION (Continued.)

6. When stock has matured, the stockholder is not of course entitled to its par value, but only to that, less his share of the expenses and losses incurred in winding up. *Id.*

CAMP MEETING. See TAXATION

CENSUS.

1. The act of 12th June, 1878, will be held to apply to a county having a *present* population of less than 150,000, as shown by the decennial census, although the same county, at the time of the passage of the act, contained a population of more than 150,000, and was therefore excepted from its operation. *O'Malley* v. *County of Luzerne*, 91.

CERTIORARI.

1. Where with the use of due diligence it was impossible to serve a writ of *certiorari* before the first day of the term, but where it was served and the proceedings were sent up before the first argument court at which it could have been heard under any circumstances, it was held that the writ should not be *non prosed*. *Hendricks et ux.* v. *Hughes*, 2.

2. A summons issued and was served in debt; the defendant pleaded a setoff, after which the summons was changed so as to read "trover." *Held*, that the proceeding was unauthorized, and the irregularity could be shown by evidence taken by depositions. *Castner* v. *Fanning*, 27.

3. Quaere: Has a justice power to amend by changing the form of action? *Id.*

4. An appeal taken by a married woman, which was never filed, will not prevent her taking a *certiorari* to review the record and proceedings before the justice. *Stephens* v. *Hadsell et ux.*, 118.

5. Where a special deputation by a constable to serve a summons is incomplete in not showing that it was made by a constable of the proper county, and the record does not show that he appeared before the justice to make his return or identify his official character, the service is irregular, and on *certiorari*—the judgment being by default—the proceedings will be reversed. *Delph* v. *Tooley*, 193.

6. Warner *v.* Wells, 3 Luz. Leg. Reg., 111, followed. *Id.*

7. Where a case pending before a justice is adjourned without day, he has no authority to proceed further with the action without proof of service of notice on the defendant. *Edwards et ux.* v. *Carr*, 427.

8. In an action of debt against a man and his wife, upon *certiorari*, a *nolle prosequi* may be entered as to the wife, and judgment may be taken against the husband alone; *provided*, the record shows a distinct promise by the husband to pay. *Pearne et ux.* v. *Hutchins*, 428.

9. The fact that notice of a hearing before a justice, after an indefinite adjournment of the case, was not given to the defendant, may be shown by parol. *Van Why* v. *Burgunder*, 435.

10. So, also, it may be shown that the plaintiff did not appear on the day that the record shows judgment to have been rendered against the defendant by default; that the defendant did appear, and that the trial was indefinitely adjourned. *Id.*

11. Costs in. *Gimber* v. *Fehlinger*, 437.

CHARTER. See CORPORATION.

COAL LEASE. See WILLS.

1. An instrument which is in many of its terms apparently a lease of coal is in reality a sale and conveyance if it passes "all the coal beneath the surface of the tract," with the right "to mine the coal and remove the same," and "the true meaning of the lease is to make it perpetual until all the coal is mined." *Sanderson et al.* v. *City of Scranton*, 259.

2. Coal under such a lease is properly assessed to the vendee. *Id.*

COMMON CARRIER.

1. At common law a public carrier is under the restriction that its charges be reasonable, and that it does not abuse its powers. This applies also to telegraph and kindred corporations. *Comments by Judge Cooley, in North American Review, on recent decisions in the the U. S. Supreme Court*, 223.

2. When the legislative grant is silent on the subject of charges, the right of the state to restrict them is unquestionable. *Id.*

3. When the grant gives the power to the corporation to fix charges in general terms and prescribes no maximum, the right of the state to restrict charges is now settled, on the ground that, in conferring upon the corporation the right to charge for the services rendered without expressly abdicating its power of control, the state must be presumed to have reserved it. *Id.*

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COMMON CARRIER (Continued.)

4. When the grant is subject to a maximum limit, nothing which observes the limit can be deemed abuse. *Id.*

5. Corporate profits may be rightfully considered in determining the reasonableness of charges. *Id.*

6. Whenever the power to amend or repeal at will has been reserved, the control of the state must be deemed practically absolute, and the corporators have only an estate at will in their franchises. But in the case of the repeal of corporate franchises, the corporators retain their property, and radical changes or repeals must be made with reference to the fundamental rules of right and justice. *Id.*

7. The Dartmouth College case, 4 Wheat., held to be applicable in its full extent only to eleemosynary corporations. *Id.*

COMMON SCHOOLS. See MANDAMUS. STATUTE.

1. The 25th section of the act of 1854, in respect to the selection of school books by directors, is mandatory in its character, in that it requires that the selection of a series of school books shall be at a meeting of directors and teachers after the annual election of the latter. *Krickbaum* v. *School Directors of Benton*, 66.

2. An injunction will lie against school directors to restrain them from adopting a new series of text books otherwise than as prescribed by law. *Id.*

3. When school directors have adopted a series of school books, not at a meeting of directors and teachers, they will not be restrained by injunction from adopting a series of books according to law at any time after discovering their error, the books irregularly adopted not having been introduced into the school. *Id.*

4. School directors may be compelled by mandamus to submit an itemized statement of their receipts and expenditures to the proper board of auditors. *Baer* v. *Weaver et al.*, 102.

5. They cannot be compelled to furnish such statement of the receipts and expenditures of their predecessors in office, who must answer for themselves. *Id.*

6. On an application by school directors for permission to borrow money, it is lawful for the court to appoint an examiner to take testimony as to the facts alleged in the petition and remonstrance, and upon his report being filed to direct the payment of a reasonable allowance for his services. *In Re Petition of School Directors of Wilkes-Barre*, 105.

7. The school district may be directed to pay the allowance in the first instance, although the report of the examiner is favorable to the petition of the directors. *Id.*

8. In the absence of positive proof of non-conformity to the law, or fraud or corruption on the part of public officers vested with discretionary powers, the mode of exercising such powers is beyond the jurisdiction of the courts. *In Re Petition of School Directors*, 219.

9. The act of April 11, 1862, is a remedial law, and its object was to provide for an equitable division of school property between the old and new school districts, in such a way as to justly distribute the burthen of taxation. *In Re School District of Luzerne Borough*, 361.

10. The old district cannot be deprived of its due share of the ownership, control, and benefits of the property taken off by the erection of a new district, without just compensation being made by the latter. *Id.*

11. As the assessable value of the taxable property was the basis upon which the respective districts contributed proportionally towards the acquisition of the property to be divided, that is the proper basis for the division. *Id.*

12. As to *cash on hand*, however, a different rule applies. That part thereof arising from *taxation* is to be divided according to the ratio of the *taxable property*; and that which is part of the *state appropriation* is to be divided according to the ratio of *taxables*. *Id.*

13. Abington School District, 3 Norris, 182; Jenkintown School District, 6 W. N. C., 67; and Lower Allen School District, 10 Norris, 182, cited. *Id.*

CONSTITUTIONAL LAW. See COMMON CARRIER. TAXATION.

1. Laws which do not apply to the whole state are special or local laws, and the exemption of one county from their operation is just as effectual in giving to them the character of special or local laws as the exemption of one-half or two-thirds of the state. *Davis et al.* v. *Clark*, 383.

2. The purpose of the act of June 28, 1879, P. L. 182, is to extend the benefits of the Mechanics' Lien Law to additional subjects and in favor of another kind of labor; it is therefore subject to the prohibition in the constitution, namely, Art III., section 7th, which reads as follows, to wit: "The general assembly shall not pass any local or special law authorizing the creation, extension, or impairing of liens." *Id.*

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CONSTITUTIONAL LAW. CONTINUED.

3. The said act offends against the prohibition above quoted, and is, therefore, unconstitutional. *Id.*

CONTRACT. See ATTORNEY AND CLIENT. FRAUD. JUDGMENT.

1. Part payment of an overdue but unrestricted debt is not of itself a good consideration, though if the debt were not yet due it would be. *Hendricks* v. *Thomas*, *180*.

2. Where a debtor pays a portion of the debt on execution, and makes a collateral, indefinite promise to give the creditor future employment, whereupon the creditor satisfies the judgment; upon failure to give the employment promised, the remedy is by action for breach of contract, and not by striking off satisfaction of the judgment, or by trial of an issue upon the judgment. *Id.*

3. For same case between the parties, see 10 Luz. Leg. Reg. 169, 1 Kulp, 381; 11 Luz. Leg. Reg. 191, 2 Kulp, 149. *Id.*

4. A suit cannot be maintained against a person merely for undertaking to get a property insured where he was paid nothing, and where the premium had not been paid. *Frauenthal* v. *Derr & Bro.*, *391*.

5. That is a mere non-feasance of an executory promise. *Id.*

CONSTABLE. See CERTIORARY. CORONER. CRIMINAL LAW.

1. Where a constable fails to appear and make his returns of persons engaged in the sale of liquors, he may, in this county, be removed from office, under the act of March 12th, 1866. *In Re Simon Arnold*, *393*.

2. Absence from the county on private and unofficial business is not a sufficient excuse for neglect in this particular, especially if he has received notice in due form to return certain alleged violators of the liquor law. *Id.*

CORPORATION. See COMMON CARRIER.

1. The requirements of the act of assembly relative to charters of churches must be strictly complied with. *In Re English Baptist Church of Shenandoah*, *329*.

2. A charter which does not provide that the property shall inure for the benefit of the lay members is fatally defective. *Id.*

COUNTY. See COSTS.

COUNTY OFFICERS.

1. The Act of Assembly of 12th June, 1878, which ascertained and appointed the fees to be received by the various county officers of the commonwealth is not a repeal of the special act of 9th April, 1873, applicable to Luzerne county. *O'Malley* v. *Luzerne County*, *188*.

COURT. See JUSTICE OF THE PEACE. LICENSE.

1. The Court of Common Pleas has an inherent power to make rules for the transaction of its business, not contradictory to the law of the land, and can therefore strike from the records a judgment entered in violation of its rules. *Coon* v. *Catten*, *71*.

COSTS. See ARBITRATION. AUDITOR. HABEAS CORPUS. INSOLVENT. JUSTICE OF THE PEACE. SHERIFF AND SHERIFFS' SALES. SHERIFF'S INTERPLEADER. POOR.

1. To appeal from an award of arbitration without payment of costs, the fact of poverty should be established by some evidence produced to the court. *Boyer* v. *Winters et al.*, *30*.

2. An attorney fee is not taxable as part of the *accrued* costs which must be paid on an appeal from an award of arbitrators. *Schooley et al.* v. *Turner*, *344*.

3. Defendant was convicted of seduction and sentenced to pay fine and undergo imprisonment. Having served his term and paid the fine he was discharged on *habeas corpus*; the record of the sentence and the commitment showing no sentence for costs. *Held*, that the county was liable for the costs. *Zeis* v. *Luzerne County*, *389*.

CRIMINAL LAW. See COSTS. HABEAS CORPUS. INSOLVENT. LICENSE.

1. It is a general rule in criminal pleading, that two distinct offences cannot be charged in one and the same count of the indictment. *Commonwealth* v *Schaub*, 62.

2. The act of 26th February, 1855 (Pur. p. 946, pl. 38), so far as it was intended to apply to, and forbid the sale of intoxicating liquors on Sunday, was repealed by the act of 12th April, 1875 (Pur. 2031, pl. 16). *Id.*

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3. An indictment which charges in the same count, the offence of selling liquor on Sunday, and also the offence of allowing liquor to be drank "on or within the premises," on Sunday, is bad for duplicity, and will be quashed. *Id.*

4. On an indictment for seduction, in the absence of testimony in corroboration of a positive character, such as the evidence of witnesses who heard the promise, or of admissions of the defendant either oral or written, the circumstances relied on must be such as are not merely consistent with a matrimonial engagement, but such as viewed in the light of human experience, positively tend to prove the fact. Taken together, they must be consistent with no other inference. *Commonwealth* v. *Hadfield*, 237.

5. Where the evidence establishes such marked attentions on the part of the defendant as raise a presumption of a promise of marriage on his part, the general fact that the lady encouraged and received these attentions is adequate to establish her assent and mutual promise. *Id.*

6. It is incumbent on the commonwealth to give evidence of the "good repute" of the prosecutrix. *Id.*

7. The defendant was a permanent boarder at the hotel of the prosecutor. He left without saying to any person connected therewith that he was going, and without paying for the food or accommodations furnished him. On argument of the rule for a new trial, counsel for the prisoner contended that a permanent boarder was not within the meaning of the statute of 1876, P. L. 45, and that only a transitory guest who obtained food and accommodations within the meaning of the statute could be convicted. *Held*, 1, that under this statute there is no distinction between a guest and a permanent boarder; and 2, that the statute includes "every person" who, with intent to defraud, obtains food or accommodations. *Commonwealth* v. *Gough*, 281.

8. Under the Criminal code of 1860 on officer has full authority to arrest, without a warrant, any person found in the act of gambling. *Shovlin et al.* v. *Commonwealth*, 387.

9. On an indictment charging an officer with assault and battery for arresting a gambler without a warrant, the question is not whether he was guilty of the assault in making the arrest, but whether he was guilty of the offense for which he was indicted by reason of his having used more force than was reasonably necessary under the circumstances. *Id.*

10. An officer authorized to arrest without warrant, is not bound before doing so to give the party arrested notice of his purpose, nor is he bound to give notice of the fact that he is legally qualified to make the arrest. *Id.*

DAMAGES. See ROADS.

DEATHS OF

Bennet, Daniel Strebeigh, 348.
Deitrick, Aaron Jared, 332.
Kingman, William Roberts, 331.

DECEDENTS' ESTATES. See WILLS.

1. A married woman died, leaving a will, and appointed an executor, who renounced. She made her minor grand children residuary legatees, but gave nothing to her surviving husband. The husband refused to accept the provisions of the will, and letters of administration *c. t. a.* were granted to him. On appeal by the guardian of the minors, the Orphans' Court revoked the letters, and directed that they be granted to the nominee of the guardian. *Held*, further, that the second proviso of the 14th section, Act 1832, not only controls and limits the enacting clause, but is also an exception to the first proviso. *Gunton's Estate*, 83.

2. Stale claims against dead men's estates should not be encouraged. *Peter's Appeal*, 175.

DECREE. See SPECIFIC PERFORMANCE.

DIVORCE.

1. After testimony has been taken before an examiner in a divorce case and filed in court, it is too late to demand an issue. *Schaeffer* v. *Schaeffer*, 15.

2. It is the duty of the court to make a proper allowance to the wife, to enable her to maintain her suit for divorce. *Walter* v. *Walter*, 65.

3. The discretion reposed in the court as to the amount of alimony to be allowed, must have reference to the pecuniary ability of the husband. *Id.*

EJECTMENT.

1. In ejectment suits the only party entitled to demand an order for a second ejectment is the party who has obtained the verdict in the first trial. *Dewitt* v. *Serfass*, 280.

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2. The plaintiff's devisor went into possession under a deed from the Lehigh Coal and Navigation Company—the said corporation not having title—and she and those claiming under her held the same for several years, when the defendant, without former possession, title, or color of title, intruded into the possession and enclosed the land with his adjoining premises by a fence. *Held*, that the plaintiff was entitled to recover in ejectment. *Ackerman* v. *Nachbar*, 403.

2. In estimating the fair rental or annual value of the premises, on a claim for *mesne* profits, the referee or a jury had a right to consider what was their value as a part necessary to the enjoyment of the larger premises, from which it was detached by the defendant's unauthorized act. *Id.*

EQUITY.

1. Where the master reports that an exception to the sufficiency of an answer is sustained, and the defendant submits to the report, the costs of the reference will be imposed on him. *Myers* v. *Kingston Coal Co.*, 271.

2. The master reported that the exception for impertinence should be dismissed for want of such clearness, precision, and particularity as the rules of equity practice require. *Held*, 1st, That the terms of the reference did not preclude the master from so reporting; 2d, That even if they did, the court might still dismiss the exceptions notwithstanding the reference. *Id.*

3. Where a demurrer to a bill in equity has been sustained, "with leave to the plaintiff to move for amendment" within a certain time, and the time thus allowed has expired without amendment, the defendant's right to a formal decree dismissing the bill was complete. Neither plaintiff nor court, on the facts of the present application, can deprive defendant of the benefit of the decision upon the demurrer. Therefore, an order dismissing the suit upon plaintiff's motion should be given the same effect as a dismissal of the bill upon the demurrer, and a motion to dismiss "without prejudice" should be denied. *Osborne, Trustee*, v. *Hollenback*, 275.

EVIDENCE. See CONTRACT. CRIMINAL LAW. DIVORCE. EJECTMENT. EQUITY. GIFT. JUDGMENT. MARRIED WOMEN. PAYMENT.

1. Where plaintiff in judgment is dead, defendant cannot be a witness in proceeding to have judgment opened, except as to transaction after the plaintiff's death with the administrator. *Everett, Executor*, v. *Cox*, 29.

2. A witness who testifies erroneously may explain and correct at any time during the course of the trial. *Staub* v. *Wolfe*, 127.

3. Whether the presumption of payment is sufficiently rebutted is a question of law for the court. *Peters' Appeal*, 175.

4. In actions arising *ex contractu*, the defendant, under the plea of payment, may give in evidence, not only direct proof of payment, but may also prove *bargains*, the violation of which has resulted in damages. *Murran* v. *Plymouth Coal Co.*, 217.

EXECUTION. See CONTRACT. EXECUTION. JUSTICE-OF-THE-PEACE. MANDAMUS.

1. The rentals of extended property should not be first applied to payment of a mortgage which was not yet payable, when the *ven. ex.* was issued. *Weil & Co.* v. *Morgan*, 20.

EXECUTORS AND ADMINISTRATORS. See DECEDENTS' ESTATES.

1. Where minors are residuary legatees, letters of administration should be granted to the nominee of their guardian. *Gunton's Estate*, 83.

EXEMPTION.

1. A defendant is entitled to the benefit of the $300 exemption law on an attachment execution, but he must make his demand within a reasonable time, and not later than the date at which the writ is returnable. *Brown* v. *Thomas*, 326.

FEES. ARBITRATORS. See COUNTY OFFICERS.

1. The act of assembly of 12th June, 1878, which ascertained and appointed the fees to be received by the various county officers of the commonwealth, was a virtual repeal of the special act of 9th April, 1873, applicable to Luzerne county: there being a general repealing clause in the later act, and the two acts being entirely inconsistant. *O'Malley* v. *The County of Luzerne*, 91.

FEME SOLE TRADER. See MARRIED WOMEN.

FRAUD. See ATTORNEY AND CLIENT.

1. Whether a contract is obtained by fraud upon one of the parties is purely a question of fact. *Staub* v. *Wolfe*, 127.

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GIFT. See MARRIED WOMEN.

1. A, in contemplation of leaving home, purchased an accident insurance ticket, which, by its terms, was non-transferable under pain of forfeiture. Before leaving home, he laid the ticket on the table, in front of his wife, and said to her that "she should take it, and take care of it, and if he got killed before he got back, she would be $3000 (the amount of the policy) better off." *Held*, that these facts were insufficient to establish a gift of the ticket to A's wife as against his creditors, that in order to establish such a gift, it was necessary to prove that A intended to part with both the possession and property of the ticket. *Williams' et al Appeals*, 345.

2. For opinion of the court below, see 12 Luz. Leg. Reg. 394, 2 Kulp, 508. *Id.*

GRAND JURY. See BRIDGES.

HABEAS CORPUS.

1. Where a sentence and commitment on a conviction for seduction fail to show that the defendant was sentenced to pay the costs, he can not be held on that commitment after the expiration of his term and payment of the fine. *In re Hadfield*, 265.

HUSBAND AND WIFE. See MARRIED WOMEN.

INCOME. See WILLS.

INJUNCTION. See COMMON SCHOOLS. LANDLORD AND TENANT.

INSOLVENT.

1. A defendant sentenced to pay a fine and costs cannot apply for a discharge under the insolvent laws until after he has been in actual confinement for three months. But if the fine is under fifteen dollars, he may be *discharged from confinement* after an imprisonment of thirty days. *In Re Insolvency of Sullivan et al.*, 26.

2. No discharge can be made under the act of 1883 unless the defendant has served an imprisonment of thirty days where he is confined for costs and fine under fifteen dollars, and three months where the fine is over fifteen dollars. *Commonwealth* v. *Cole*, 215.

3. A prisoner sentenced to fine and imprisonment cannot make his application for a discharge under the insolvent laws immediately after his term of imprisonment is over. *In re Huntzinger*, 277.

INSURANCE. See CONTRACT. GIFT.

JUDGMENT. See BUILDING AND LOAN ASSOCIATION. CONTRACT. COURT. MANDAMUS EXECUTION. SHERIFF AND SHERIFF'S SALE. USURY.

1. On an application to open a judgment the burden of proof is on the defendant, and after very long delay on his part, during which witnesses are quite likely to have forgotten the details of the transaction, he is in equity required to do something more than to cast doubt on the plaintiff's case. *Ansley* v. *Arnt*, 327.

2. A judgment may be opened as to a part, and the rule discharged as to the residue. *Id.*

3. Monroe v. Monroe, 12 Nor. 520, followed. *Id.*

4. On a rule to open a judgment, unliquididated damages arising from a contract not a part of the judgment in controversy cannot be introduced to reduce the amount of the judgment. *Caffrey, assigned*, v. *Carle*, 1.

5. Representations, when to be regarded as no more than the expression of an opinion. *Id.*

6. An assignee for value of a judgment is not affected by subsequent proceedings, to which he is not a party, attaching the debt as that of his assignor. *Rinehimer, assigned*, v. *Dunn et al.*, 5.

7. The defendant cannot offset the judgment thus obtained against him in the attachment against the assignee of the judgment debt attempted to be attached, without proof that the assignment was fraudulent, or that he did not have notice of it. Neither will these facts be ground for opening the judgment. *Id.*

8. The court has power to order the satisfaction of a judgment only when fully satisfied that it has been paid. *Morgan* v. *Klitsch, Executor*, 17.

9. Outstanding title under which no claim has ever been made, is no ground for opening judgment for purchase money, there being no evidence of fraud or surprise. In such case, the defendant must resort to his action on the covenants in his deed. *Everitt, Executor*, v. *Cox*, 29.

10. The court will not open a judgment by confession where the defendant *inter alia* waives "*all bankrupt laws of the United States, which are now in force, or that may hereafter be in force*," for the purpose of allowing the defendant to plead his discharge in bankruptcy as a defense to the judgment. *Merchants' and Mechanics' Bank* v. *May*, 399.

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11. A judgment confessed is conclusive and cannot be attacked collaterally. *Rice and Brother* v. *Smith*, *431*.

JUSTICE OF THE PEACE. See CERTIORARI. POOR.

1. Where exception is taken to the bail entered for an appeal from the judgment of a justice of the peace, before the appeal has been actually entered in the Common Pleas; the proper practice is for the justice to grant a rule on the appellant, to justify, or enter new bail. *Morgan* v. *Trescott*, *61*.

2. The act of April 20, 1876, P. L. 43, relating to suits for wages, does not repeal the act of March 2, 1868, P. L. 257, requiring the payment of accrued costs in appeals from the jugments of justices of the peace. *Gwyllyn* v. *Plymouth Coal Co.*, *194*.

3. In Luzerne county, under act of 1868, *supra*, on appeal from the judgment of a justice, the accrued costs must be paid. *Id.*

4. An appeal in a wages case will be stricken off where the affidavit required was not filed, the appellant being duly notified by the magistrate that it was necessary. *Kingeter* v. *Stritzinger*, *325*.

5. The transcript showed an alderman's judgment obtained January 13, 1872; an execution issued December 13, 1874, and a return of *nulla bona*. The transcript was entered March 8, 1882, whereupon the present rule was taken. *Wisler* v. *Carrigan*, *330*.

6. It has been held that the court will presume that a justice's judgment nineteen years old has been paid. Diamond v. Tobias, 2 Jones, 313. The court has no power to strike off a transcript of a justice's judgment. *Id.*

LANDLORD AND TENANT.

1. It was provided in the farming lease of plaintiff to defendant that all the hay, straw, and corn stalks should be "fed and left on the place." On the hearing of the motion for injunction, defendant showed that the hay and straw on the premises were not equal in quantity to what he took there when he took possession: also, that the same had been sold on execution with the plaintiff's knowledge and without objection. *Held*, that a preliminary injunction should not be allowed. *Barnes et ux.* v. *Hess*, *101*.

LICENSE. See CRIMINAL LAW.

1. The courts have power to revoke a liquor license, upon cause shown. *In re License of C. S. Gabel*, *445*.

2. Discretion of the court considered. *Id.*

3. Maintaining a theatre having communication with the hotel bar-room in contravention of the act of July 9, 1881, is cause for revoking the hotel license. *Id.*

4. Where the business is being conducted by the person licensed, unlawfully, and in such a way as to make it unlawful for the court to grant him a license, it is the duty of the court, on the facts being shown, to revoke the license already granted. *Id.*

5. A bottler of "cider, perry, ale, porter, or beer" must make application to the court upon petition, endorsed by twelve of his fellow-citizens, as a man of temperate habits, and of good moral character. It must appear by certificate that such license is necessary, and before the license is granted, he must give bond with sureties conditioned for the faithful observance of the law regulating the sale of this kind of liquor. *Com.* v. *Flacks*, *21*.

LIQUORS. See CONSTABLE. LICENSE.

LUNACY.

1. Prior to the act of May 8, 1874, no time was fixed by law within which an inquisition of lunacy must be traversed. *In Re Lunacy of Truxton Benedict*, *213*.

2. The limitation fixed by that act is three months, within which a traverse is matter of right, but after which period it is a matter resting in the discretion of the court. *Id.*

3. Circumstances under which this discretion will be exercised. *Id.*

MANDAMUS. See COMMON SCHOOLS.

MANDAMUS EXECUTION.

1. A mandamus execution to enforce a judgment against a school district regularly does not issue until allowed by court. *Penn'a School Supply Co.* v. *Dennison School District*, *124*.

2. If regular in all other respects, this defect will not justify a treasurer in treating it as a void writ. He should move to have it set aside. *Id.*

3. On a motion for attachment against a treasurer, it appeared that the writ contained no

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command to him. *Held*, that the attachment could not issue. The command of the mandamus must be directed to the directors and treasurer, not to the school district. *Id.*

MARRIED WOMEN. See CERTIORARI. POOR.

1. The court has not jurisdiction to annul a decree constituting a married woman a feme sole trader upon her own application. *In Re Petition of Catherine Haman, 104.*

2. Justices' record averring a claim for "family necessaries" is not sufficient to support a judgment against a married woman unless it also avers a contract made by her. *Stephens* v. *Hadsell et ux., 118.*

3. A married woman may, with the consent of her husband, adopt a child under the act of May 4, 1855. *In Re Forest's Application, 131.*

4. The deposit of money arising from a husband's business, by the wife, in a bank in her own name, even though it be with the husband's knowledge, is not presumptively a gift of the money to her. *McDermott's Appeal, 135.*

5. The wife's possession of such money in bank is the husband's possession, and is not of itself sufficient evidence of her ownership. *Id.*

6. The fact that the account for such money is in her name is no evidence of her owner ship. *Id.*

7. A joint action of debt against a husband and wife for rent cannot be maintained, it not appearing on the record that it was alleged or proved that the debt was contracted by her and was for necessaries. *Edwards et ux.*, v. *Carr, 427.*

MECHANIC'S LIEN. See CONSTITUTIONAL LAW.

MESNE PROFITS. See EJECTMENT.

MINES AND MINERALS. See WILLS.

NEW TRIAL. See PLEADING AND PRACTICE.

ORPHANS' COURT.

1. The court will not direct a resale of real estate for payment of debts on account of not being properly advertised, unless the costs of resale are secured to be paid in case the property should not bring an equal price on a resale. *Forney's Estate, 4.*

PARTITION.

1. Notice in. *Davis' Estate, 130.*

2. In an action of partition, where the plaintiff has filed his declaration, and the defendant has filed his plea, a summary judgment *quod partitio fiat* is improper. *Schwartz* v. *Hegler, 258.*

PARTNERSHIP.

1. Where a partnership is registered, a suit against the partners, not in the firm name, cannot be maintained. *McCahan et al.* v. *Gensemer et al., 86.*

PARENT AND CHILD. See POOR.

PAYMENT. See ACCORD AND SATISFACTION. JUSTICE OF THE PEACE.

1. After the lapse of twenty years, mortgages, judgments, recognizances, and all evidences of debt, are presumed to be paid. *Peter's Appeal, 175.*

2. Such presumption stands until rebutted, gathers strength as time advances, and cannot be overcome by proof, vague and uncertain. *Id.*

PLEADING AND PRACTICE. See ARBITRATION. ATTACHMENT AND ATTACHMENT EXECUTION. AUDITOR. CERTIORARI. COURT. COMMON SCHOOLS. CRIMINAL LAW. DIVORCE. EQUITY. EJECTMENT. EVIDENCE. JUDGMENT. MARRIED WOMEN. ORPHANS' COURT. PARTNERSHIP. PARTITION. REFEREE. SHERIFF'S INTERPLEADER. SHERIFF AND SHERIFF'S SALE. SPECIFIC PERFORMANCE.

1. Where, in an action of slander, the affidavit of the plaintiff contains no averment of special damage, or that the defendant is about to leave the state, and the alleged slanderous words do not impute a crime, the defendant is entitled to be discharged on common bail. *Pfouts et ux.* v. *Cresley, 70.*

2. That the court below erred in prescribing the order in which counsel should address the jury is not ground for reversal in the Supreme Court. *Staub* v. *Wolfe, 127.*

3. It seems that a *venire de novo* is sometimes allowed where the plaintiff has no right to recover. *Laurel Run Building Association* v. *Sperring, 132.*

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4. When the charge of the court as an entirety is correct, a new trial will not be granted because of the phraseology of a single sentence. *Totten* v. *Hicks*, 123.

POOR.

1. Under act of 1836 (Purdon 1157, pl. 27), the children and grandchildren of a pauper are on precisely the same footing of liability for the relief of such pauper. *In Re Hadsall et ux.*, 267.

2. A grandchild is not discharged from this liability by proof of other grandchildren not reached by process, or even of children out of the jurisdiction of the court; his liability is individual, to be measured by his individual ability. In this case, a poor district asked for an order of relief against certain children and grandchildren of a pauper. There were other children and grandchildren either out of the jurisdiction or not served with process, some of whom were well able to give relief. None of the respondents except one, a grandson, was able to contribute towards pauper's support. *Held*, that said grandson was liable to the extent of his individual ability. *Id.*

3. Upon the confirmation of an order of removal the appellant is chargeable with the expenses of maintaining the pauper by the appellee incurred prior to the order of removal, there being no laches or unnecessary delay in obtaining the order. *In Re Ross Poor District*, 439.

4. The appellant is also liable for such costs incurred after obtaining the order, where notice has been given to the appellant of the order and the pauper is too ill to be removed. *Id.*

5. The confirmation of an order of removal is a conclusive adjudication of all matters essential to the adjudication. *Id.*

6. A justice is incompetent, on the ground of interest, to join in an order of removal from his own township to another, but not to issue an order of relief. *Id.*

7. The court will take judicial notice of the official character of justices of the peace. *Id.*

8. Expenditures by *de facto* overseers may be recovered on confirmation of the order of removal. *Id.*

9. Election of overseers in boroughs considered. Act June 27, 1881, P. L. 120. *Id.*

10. Where tax books are produced showing assessments upon a certain party which are marked "paid," this is *prima facie* evidence of payment in a question as to the legal settlemen of the party assessed. *In Re Scranton Poor District*, 443.

11. A husband may gain a new settlement by residence and paying taxes in a new district, notwithstanding the fact that during such time his wife receives support as a pauper in the town of his old settlement. In such case it is proper to order the removal of the wife from said old settlement to the new one gained by the husband. *Id.*

12. For opinion of the court below see 13 Luz. Leg. Reg. 315, 2 Kulp, 457.

REFEREE.

1. A referee, under the act of 1870, should state specifically his conclusions of fact on all essential questions raised by the evidence, in order that their correspondence or non-correspondence with the weight of the evidence may be verified. *Blackman et al.* v. *Smith*, 273.

2. In this case, the referee having failed to find and state specifically certain conclusions of fact, the report was referred back. *Id.*

ROADS.

1. If only two or three road viewers participate in a view, the error is fatal. It must affirmatively appear that the viewers were sworn. *Ryan Township Road*, 131.

2. If only two road viewers are present, they have no authority to choose a third. *Id.*, 357.

3. The supervisor and auditors of all the townships through which the proposed road is to be laid out must be notified of the view. *Id.*

4. For Luzerne county act see Purdon's Digest, 1290.

5. Appeals from assessments of damages to the owner of property taken for public use, under the act of 13th June, 1874, must be entered within thirty days from the filing a report thereof in court, and not from the confirmation of the report. *In Re Private Road in Nescopeck Township*, 178.

6. The time when the report is filed is the time when the damages are ascertained. The thirty days allowed for the appeal must begin to run from that time. *Id.*

7. For opinion of the court below, see 2 Kulp, 487.

RULES OF COURT. 65.

SET OFF. See JUDGMENT.

SHERIFF'S INTERPLEADER.

1. Under the Sheriff's Interpleader act of 10th April, 1848, and in other feigned issues, the

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costs do not necessarily, and of course, follow the verdict. The costs in all such proceedings are within the discretion of the court. *Miller* v. *Black et al.*, 57.

2. A non-resident execution creditor who is defendant in a sheriff's interpleader issue cannot be required to give security for costs, where the affidavit upon which the motion is based shows nothing which would in the first instance cast the burden of proof on the defendant in the issue. *Palmer* v *Cole et al.*, 80.

3. In feigned issues at law, other than those under the Sheriff's Interpleader Act, the general rule is that costs follow judgment. *Black's Appeal*, 186.

4. Under the Sheriff's Interpleader Act, which declares that "the costs of all such proceedings shall be in the discretion of the court," refers solely to proceedings and issues under that act, and has no application whatever to other feigned issues directed by the court for the purpose of determining disputed questions of fact according to the course of common law. *Id.*

5. Where goods have been levied upon under different executions a claimant will only have to give one bond under the Interpleader Act, and not a bond for each execution. *Rinehart & Bro.* v. *Bodine et al.*, 189.

SHERIFF AND SHERIFF'S SALE.

1. Gross inadequacy of price, when coupled with other equitable circumstances, may be ground for setting aside sale. *Welles* v. *Davis*, 119.

2. Mere inadequacy of price is not sufficient ground for setting aside a sheriff's sale. *Campbell* v. *Williams*, 185.

3. Where the inadequacy is very gross, and where no person interested can be harmed in any way, the court will be authorized, in the exercise of the discretion vested in it, in seizing on any other matter of equity to set the sale aside. *Id.*

4. Where a judgment has been recovered by the sheriff, against a non-complying bidder at a sheriff's sale, for the difference of his bid and what the same property brought at a subsequent sale, the defendant will not be allowed to pay the amount of the judgment directly into court. The 86th section of the act of June 16, 1836, relating to the distribution of the proceeds of sheriff's sales, does not apply. *Whitaker* v. *Peck*, 358.

5. In such case the sheriff is trustee by "operation or implication of law," and it is his duty to collect the judgment and file his account of the proceeds, as in case of other trustees. *Id.*

6. If the sheriff has been so long out of office that his bondsmen are no longer liable for his official acts, or for any other cause justice requires it, the court will direct that he execute a bond with sufficient sureties, to be approved by the court, conditioned for the faithful execution of the trust, before he will be allowed to receive the money. *Id.*

7. On filing his account, showing a fund in his hands, it is then within the grasp of the court, and under the 28th section of the act of June 14th, 1836, relating to trustees, an auditor may be appointed to report distribution. *Id.*

8. Where a purchaser at a sheriff's sale fails to comply with his bid, and the difference of the bid and what the property brought at a subsequent sale is recovered at the suit of the sheriff, the counsel conducting the litigation for the sheriff are entitled to be paid their reasonable fees out of the fund recovered, in the same manner and to the same extent as the counsel of other trustees. *Id.*, 385

SLANDER. See PLEADING AND PRACTICE.

SPECIFIC PERFORMANCE.

1. In a decree for specific performance of a contract for sale of land where the plaintiff is ordered to pay the purchase money into court before he can demand a deed, the court will order that it shall not be paid out to the defendant without previous notice to the plaintiff. *Gerstle* v. *Reiss*, 56.

2. Such money is first applicable to encumbrances upon the land done or suffered by the defendant. *Id.*

STATUTES.

1. When a statue confers a power which concerns the public, as well as individuals, it is not merely permissive, but is mandatory. *Krickbaum* v. *School Directors of Benton*, 66.

2. Where some antecedent and pre-requisite condition must exist prior to the exercise of a power conferred by statute, the statute must be regarded as mandatory. *Id.*

SURETIES. See SHERIFF AND SHERIFF'S SALES.

TAXATION. See COAL LEASE. POOR.

1. Manufacturing machinery affixed to the premises by the lessee, is subject to taxation as

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real estate. *Luzerne County* v. *Galland Brothers & Co.*, *18*.

2. Under the act of May 14, 1874, and section 2, article IX., of the constitution, only that part of the property of a camp meeting association that is actually used for the purpose of religious worship is exempt from taxation. *Luzerne County* v. *Camp Meeting Association*, *390*.

TRIAL. See EVIDENCE.

TRUST. See WILL.

USURY.

1. An action connot be maintained to recover back usury included in a judgment. *Rice & Brother* v. *Smith*, *431*.

2. When a debtor pays usurious interest on a judgment, which is subsequently revived and he then pays the revived judgment, he cannot recover back such payments by action. *Semble*. *Id.*

3. A debter paid usurious interest on a judgment for the years 1874, 1875, and 1876; in November 1877. the judgment was amicably revived; in making up the amount of the revived judgment the parties added to the face of the original judgment, interest from 1876, at ten per cent., thus offsetting the payments in the years named against the interest for the same years; in 1880 this judgment was paid and within six months thereafter suit was brought to recover back the usury included in the judgment and the usury paid in the three years named. *Held*, that he was not entitled to recover; his remedy was to have the judgment opened. *Id.*

WAGES. See JUSTICE OF THE PEACE.

1. The salary of a base ball player is not a preferred claim under the wages act of June 15, 1883. *In Re Anthracite Base Ball Association*, *31*.

WARRANTY. See JUDGMENT.

WILLS. See DECEDENT'S ESTATE.

1. The direction to pay over to a grandson at his arrival at the age of twenty-two years "the annual income and proceeds of any accumulations thereof" does not limit the gift to the interest upon the interest. What is meant is, the income and proceeds of the residuary estate, and of the accumulations, if any, which were authorized to be made during his minority. *Drake's Estate*, *97*.

2. A testamentary power to lease mineral lands when properly exercised puts the property and its rents on the same footing as if the testator had leased it or opened the mine himself. While the *logic* is that a coal lease is a sale of the coal in place, and consequently a sale of the *corpus*, the *legal conclusion* is that where a testator authorizes his trustees to lease coal land, and they do lease it, the rents will pass under a devise of the income and proceeds of the land. *Id.*

3. The direction to pay over to a grandson at his arrival at the age of twenty-two years "the annual income and proceeds of any accumulations thereof" does not limit the gift to the interest upon the interest. What is meant is, the income and proceeds of the residuary estate, and of the accumulations, if any, which were authorized to be made during his minority. *Shoemaker's Appeal*, *179*.

4. A power to executors or trustees to lease mineral lands for mining purposes shows very clearly the intent that the proceeds of the lease are to constitute income, and therefore must go to the life-tenants. *Id.*

5. For opinion of the court below, see 13 Luz. Leg. Reg. 97, 3 Kulp, 51.

6. Trustees, under a power in the testatrix's will to lease "for any term of years," or "to grant, bargain, and sell" the real estate, at such times and on such terms and at such prices as they might deem most for the benefit of her estate, united with the other co-tenants of an unopened coal property in a lease of *all the coal* at a fixed price per ton, and a covenant for a fixed annual minimum production. The will contained a trust for the testatrix's daughter for her minority, and then for her life, of "the entire yearly interest and net income" of the residuary estate, "and the yearly interest and net income of any and all accumulations thereof, for her sole and separate use," with remainder to her children. *Held*, That the rents went to the daughter during her life. *McClintock et al.* v. *Dana et al.*, *395*.

7. The authority vested by the will in the trustees placed the rights of the *cestui que trust* upon the same footing as if the power had been exercised by the testatrix in her lifetime. *Id.*

8. There was no trust for accumulations generally, but only during the daughter's minority. Eley's Appeal recognized, approved, and followed. Mercur, C. J., dissents for the following reason: "Because the mine was not opened and this judgment recognizes a right to sell under a power to sell." *Id.*

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, JANUARY 4, 1884. NO. 1.

Court of Common Pleas of Luzerne County.

CAFFREY, *assigned*, *v.* CARLE.

1. On a rule to open a judgment, unliquidated damages arising from a contract not a part of the judgment in controversy cannot be introduced to reduce the amount of the judgment.

2. Representations, when to be regarded as no more than the expression of an opinion.

Rule to show cause why judgment should not be opened, and defendant let into a defense.

The opinion of the court was delivered October 8, 1883, by

RICE, P. J.—The defense to this judgment, in all material particulars, rests upon the uncorroborated testimony of the defendant. He is contradicted by the plaintiff, and his testimony is inconsistent with the terms of the written agreement, which was drawn up to express the final views of the parties after a series of conferences and negotiations, and is also inconsistent with the testimony of Mr. Downing, who drew up the paper at the request of the parties. It is quite possible that there was an agreement between the parties as to the hiring of the plaintiff's team, but the weight of the parol testimony and the written agreement itself show that it was not part of the consideration of the note and judgment in controversy, nor of the agreement for which the note was given. This being the case, the unliquidated damages for which the plaintiff may be liable upon a breach of the agreement of hiring cannot be off-set here. It is not alleged that the execution of the agreement of sale was procured by fraud, nor that it does not contain all that the parties intended that it should. In the absence of fraud and mistake, and of an express warranty, the alleged representations by the plaintiff that there was ice

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enough to supply the defendant's customers, especially as the means of knowledge as to the quantity were equally accessible to both parties, and as the defendant did not purchase until he had in fact examined for himself, must be regarded as no more than the expression of an opinion, and not as the means which produced the bargain. Hence, under the well recognized authorities, they do not constitute an equitable defense to the judgment.

The rule is discharged.

Court of Common Pleas of Luzerne County.

HENDRICKS *et ux.* *v.* HUGHES.

Where with the use of due diligence it was impossible to serve a writ of *certiorari* before the first day of the term, but where it was served and the proceedings were sent up before the first argument court at which it could have been heard under any circumstances, it was held that the writ should not be *non prosed.*

Certiorari.

The opinion of the court was delivered September 17, 1883, by

RICE, P. J.—This *certiorari* was sued out in due time; the plaintiffs in error made reasonable effort to have it served before the return day, but by no fault of theirs, or of any person acting for them, they were prevented from doing so. It appears that the writ was issued on Saturday, January 6, 1883. In accordance with our rules of court, it was made returnable on the first day of January term, which was the following Monday, and strictly should have been served before the return day. The person who was instructed to serve the writ, on the same day that it was issued, went first to the office of the justice, and not being able to find him there, went next to his house, where he was informed at the door by the son of the justice that he could not see him; that his father was sick in bed and asleep. True, the justice testifies that he was not sick on the day in question, but that he was in and out of his office during the day. This testimony is not in irreconcilable conflict with that of the plaintiffs in error, for assuming it to be true, as we must from the character of the

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magistrate, the fact still remains that the agent of the plaintiffs in error was informed differently at his house by a member of the justice's family. Receiving the information which he did, it is hardly to be expected that the most diligent man would make further effort to serve the writ on that day. Before the first day of the succeeding term (February), the writ was served upon the justice, and the proceedings were returned. By this delay the defendant in error suffered no harm, for so far as the duties of the plaintiffs in error were concerned, the case was ready for argument at the first argument court when it could have been heard under any circumstances. These being the facts, it seems to us that the plaintiffs in error have shown reasonable diligence in their efforts to serve the writ before the return day, and that the motion to *non pros.* the same because it was not so served should be overruled.

A glance at the record will suffice to show it is fatally defective in not showing that the debt was incurred for necessaries for the support and maintenance of the family of the plaintiffs in error, that it was contracted by the wife, and that these facts were proved.

The motion to *non pros.* the writ is refused, the exceptions are sustained, and the judgment and proceedings are reversed and set aside.

Jas. L. Lenahan, for plaintiffs in error.
Geo. K. Powell, for defendant in error.

We regret to announce the suspension of the *Lancaster Bar.* It has been a welcome visitor for twelve years. The *Lancaster Law Review*, edited by H. C. Brubaker and Charles I. Landis, takes its place. It is ably conducted, and we welcome it to our exchange list.

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Orphans' Court of Schuylkill County.

FORNEY'S ESTATE.

The court will not direct a resale of real estate for payment of debts on account of not being properly advertised, unless the costs of resale are secured to be paid in case the property should not bring an equal price on a resale.

Exceptions to confirmation of administratrix's return of order of sale of decedent's real estate for payment of debts.

The opinion of the court was delivered by

GREEN, J.—From the testimony taken upon the rule to set aside the sale, it appeared that the real estate consisted of two lots, on each of which a dwelling house and out-buildings were erected. There was a division fence between the two lots. They were described as two certain lots, containing in front 85 feet and in depth 192½ feet. No description of the buildings appeared in the advertisement. The lots were sold separately. On January 22, 1883, the court ordered a resale of the property, on condition that the exceptant would give security to pay the costs in case the property should bring less at a resale. The exceptant refusing to comply with the conditions upon which the resale was ordered, the return of the administratrix was confirmed.

We expect to have ready the index to volumes xi. and xii. in a week or two. We would suggest to our subscribers that now is a good time to look over their numbers, and see if any are missing.

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LICENSES.

Notice is hereby given that the following persons have filed their applications for license to keep hotels and restaurants, and to sell liquor by the quart, in the office of the Clerk of the Court of Quarter Sessions of the county of Luzerne, and that said applications will be heard by the court on Monday, January 28th, 1884:

HOTELS.

McManus	Conrad Fey	Dorrance Tp.
Hayes	A. C. Heiney	Freeland.
"	Frederick Haas	"
Hayes	H. & T. Elliott	Foster Tp.
"	William Lorenz	"
"	Anthony Rudewick	"
J. Lynch	Charles Murrin	"
J. T. L	James Cartwright	"
Martin	Paul Gruver	Hollenback Tp.
Kline	A. Muhl & Graaf	Hazleton.
"	Frederick Kepping	"
Kisner	Michael McGarrity	"
McManus	John Ballentine	"
Brundage	C. J. Volkenand	"
Hakes	Wm. Jones, Jr	Hanover Tp.
Jenkins	H. A. Laycock	Kingston Tp.
O'Neill	Jenkin B. Jones	Miners Mills.
Moore	Charles J. Meighan	"
J. Lynch	Lewis Hodges	Nanticoke.
J. Lynch	Mary Keating	Plymouth Tp.
Mosier	E. M. Sinclair	Pittston.
J. Lynch	John McGoven	Parsons.
Campbell	Jacob Stetzer	Wilkes-Barre.
O'Neill	George Ferstenfeld	"
"	John Tite	"
Mahon	Stephen Zeller	"
B. & W	John Storz	"
Darte, Jr	John E. Hunter	"
Coons	S. E. Kennedy	"
McLean	Charles Howard	"
"	Robert McCadden	"
D. & A	Annie Harvey	"
G. H. Butler	Henry D. Higgins	"
Robinson	Jacob Rieg	"
H. & McG	B. F. Dilley	"
J. T. L	Henry Lewis	"
Robinson	John Kenney	"
Phoenix	Lewis Zeller	"
J. T. L	Henry Ridmauer	"
Evans	Andrew Hahn	"
J. T. L	John Mailander	"

RESTAURANTS.

Hines	Patrick Blich	Ashley.
"	Baptist Engle	"
Harding	Patrick McGovern	"
Plumb	James Tredinrick	"
Kline	Andw. W. Bechtloff	Butler Tp.
Kisner	Bryan Martin	"
Hayes	George Hess	"
J. Lynch	Owen Boyle	Black Creek Tp.
Hayes	Libor Winters	Freeland.
"	Frank McShea	"
"	Condy McCool	"
"	Ralph Marley	"
"	Patrick Carey	"
"	Joseph Collins	"
Jones	Wm. Morgan	"
J. Lynch	Frank Gallagher	"
Gates	Raphael Depierro	"
Hayes	Frank Kenny	Foster Tp.
"	P. F. Harvey	"
"	Jane Defoy	"
McManus	Andrew Breslin	"
Fuller	Patrick Higgins	"
Kane	Vincenz Mattoxi	Hazleton.
"	Lloyd Fox	"
"	Frank Orawitz	"
"	Charles Ermish, Sr.	"
"	Michael Angelo	"
"	John Lapp	"
"	Jacob Schmidt	"
"	John Lapp, 2d	"
Troutman	Henry Shafer	"
Hahn	Jacob Rosenstock	"
McManus	John Cannon	Hazleton.
"	Reinhard Bertrom	"
"	Patrick Gallagher	"
"	John Conohan	"
"	Daniel Duffy	"
J. T. L	John Healy	"
Kisner	Anthony McHale	Hazle Tp.
Hines	Thomas Powell	Hanover Tp.
McLean	Thomas Timlin	Kingston.
J. T. L	Patrick Hefron	Kingston Tp.
Hines	Wm. J. Stephens	"
Harding	Charles Barney	Luzerne.
Chapin	C. R. Eder	Nanticoke.
"	John A. Gruver	"
"	Vincent Viczbolowicz	"
"	Robert Holsworth	"
"	Anton Schwartz	"
"	Peter Haslem	"
Strauss	John Kryniki	"
E. A. L	Jos. Navjusgeski	"
J. Lynch	Wm. Williams	"
Magee	John Hlowak	Plymouth.
Burke	Wm. Brennan	Plymouth Tp.
J. L. L	Michael Kelley	"
"	Mary Regan	"
J. T. L	Bridget Bilbow	"
Koon	James Fairbrother	Pittston.
"	Edward Gallagher	"
"	Peter Joyce	"
"	Patrick Reap	"
" Butler	Mary Ann Russell	"
Mahon	J. & W. Hill	Parsons.
H. & McG	Patrick Corrigan	Plains Tp.
Harding	William Wright	"
J. S. H	Maria O'Malley	"
Plumb	George Fenton	"
J. L. L	P. H. Flaherty	Pleasant Valley.
J. T. L	Andrew Umberust	Wilkes-Barre.
Campbell	Lewis C. Engle	"
J. Lynch	Jacob Geier	"
Hines	Thos. Featherstone	"
Osborne	Thos. Dudlick	"
Harding	Ellen Hughes	"
Jones	Jennettee Williams	"
McLean	Joseph Chrink	"
Strauss	Thomas Gethins	"
Hahn	George Russ	"
J. T. L	James Flynn	"
Hines	John Dawson	Wilkes-Barre Tp.
"	John Kelley	"
J. T. L	William Dempsey	White Haven.

BY THE QUART.

Brundage	Fowler & Hassenplug	Black Creek Tp.
Hayes	Maurice Ferry	Freeland.
"	Charles Vandoski	"
"	Patrick Dougherty	"
"	James Collins	"
Hayes	John Ferry	Foster Tp.
"	Anthony Surman	"
"	Condy Gaffney	"
"	Peter Burns	"
"	John Shigo	"
Halsey	Peter Timony	"
"	Philip Kennedy	"
McLean	Daniel Shovlin	"
McManus	John Brown	"
J. T. L	Austin Harvey	"
"	Condy Brennan	"
Kline	John Kennedy	Hazleton.
"	A. Slowitzky & Bro.	"
"	Matthew Long	"
McManus	Michael McHugh	"
"	Daniel McGeehan	"
"	Thomas McHale	"
"	Peter Brady	"
"	Patrick McCoy	"
J. T. L	Con Kelley	"
"	Patrick McHugh	"
Reynolds	Francis Roth	Kingston.
McLean	Jos. R. Thomas	Kingston Tp.
J. Lynch	Thomas Gaffey	Nanticoke
J. L. L	John McGoven	Plymouth Tp.
"	Patrick Riley	"

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Hughes	J. W. Davis	Pittston.
Brundage	Buchanan & Rhoads	Parsons.
Mahon	Michael Corrigan	Plains Tp.
McLean	Cornelius Burke	Wilkes-Barre.
J. T. L	C. A. Gaughan	"
O'Neill	Charles McNamee	"
Coons	Brian McManaman	"
McLean	Patrick Peoples	"
Hines	Joseph Featherstone	"
J. T. L	Robert Howe	"
Strauss	L. Lewith	"
McCartney	W. M. Miller	"
Jones	William Griffith	"
Strauss	Anthony C. Helfrich	"
Hines	John Mackin	Wright Tp.

BOTTLERS.

Hayes	John Yannes	Freeland.
Kline	Philip Mane	Hazleton.
"	C. Krapf	"
J. Lynch	J. J. Gaughan	Jenkins Tp.
Koon	Patrick Moylan	"
Chapin	Ball & Gross	Nanticoke.
Gates	A. M. Bryden	Pittston.
Koon	Joseph J. Kern	"
"	John Nash	"
Campbell	Martin Bauer & Son	Wilkes-Barre.
J. T. L	George Knorr	"
Hahn	F. Thorn	"

L. K. STRENG,
1-3 Clerk Q. S.

ESTATE OF HANNAH MEEKER, LATE OF Fairmount township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES MEEKER,
1-6 Lehman, Pa.

ESTATE OF BILLY HARRISON, LATE OF Huntington township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. J. WILKINSON,
1-6 Bloomingdale, Pa.

ESTATE OF CLARA ROOD, FORMERLY Wiant, late of Fairmount township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

DENNIS WIANT,
1-6 Harveyville, Pa.

ESTATE OF ABIAH SUTLIFF, LATE OF Ross township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. J. WILKINSON,
1-6 Bloomingdale, Pa.

ESTATE OF SUSAN WOLF, LATE OF UNION township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. H. WOLF,
1-6 Lehman, Pa.

ESTATE OF AMY WILKINSON, LATE OF Ross township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. J. WILKINSON,
1-6 Bloomingdale, Pa.

ESTATE OF CHARLOTTE WESLEY, LATE of Ross township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JONATHAN O. IDE,
48-1 Lehman, Pa.

ESTATE OF JAMES R. LEWIS, LATE OF Kingston township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

NANCY F. LEWIS,
T. H. B. LEWIS, Trucksville, Pa.
Attorney. 48-1

ESTATE OF AMANDA E. LANING, LATE of Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE C. SMITH,
E. P. DARLING,
49-2 Wilkes-Barre, Pa.

ESTATE OF SARAH GUNTON, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES C. DRIESBACH,
WM. S. McLEAN, Wilkes-Barre, Pa.
Attorney. 49-2

ESTATE OF LOUIS EMORY, LATE OF THE city of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

E. P. DARLING,
49-2 Wilkes-Barre, Pa.

ESTATE OF MINERVA STURDEVANT, late of Peckville, Lackawanna county.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

E. J. STURDEVANT,
49-2 Wilkes-Barre, Pa.

ESTATE OF GARNER H. SNYDER, LATE of Plymouth, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEO. W. SHONK,
52-5 Plymouth, Pa.

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ESTATE OF MARTIN T. MITCHELL, LATE of Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

LEWIS COHEN,
S. J. STRAUSS, Pittston, Pa.
Attorney. 50-3

ESTATE OF WILSON W. WEBB, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELIZABETH WEBB,
S. J. STRAUSS, Wilkes-Barre, Pa.
Attorney. 50-3

ESTATE OF ISABELLA MITCHELL, LATE of Plains township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

R. C. MITCHELL.
E. P. & J. V. DARLING, Plainsville, Pa.
Attorneys. 50-3

ESTATE OF JOHN BOONE, LATE OF THE township of Black Creek, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ANNIE BOONE,
GEO. H. TROUTMAN, Rock Glen, Pa.
Attorney. 50-3

ESTATE OF JOSEPH B. KELLEY, LATE OF Plymouth township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELBERT C. DOUGLAS,
GEO. W. SHONK, Lovelton, Pa.
Attorney. 51-4

ESTATE OF CATHARINE WILLIAMS, LATE of Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN J. POWELL,
GEO. S. FERRIS, Pittston, Pa.
Attorney. 52-5

ESTATE OF ANN HARTLAND, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

OBIDIAH HARTLAND,
Wilkes-Barre, Pa.

ESTATE OF JANE PRICE, LATE OF THE borough of Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHAS. H. FOSTER,
E. P. & J. V. DARLING, Pittston, Pa.
Attorneys. 52-5 1-4

ESTATE OF JOHN MITCHELL, LATE OF Plains township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN L. MITCHELL,
W. W. AMSBRY,
E. P. DARLING, Plains, Pa.
Attorney. 50-3

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 460, October term, 1883. Libel in divorce a vinculo matrimonii. John Leinbach v. Mary Alice Leinbach. The alias subpoena in the above case having been returned non est inventus, you, the said Mary Alice Leinbach, are hereby notified to appear at said court, on Monday, January 14, 1884, at 10 o'clock A. M., to answer the complaint therein filed.

WILLIAM O'MALLEY,
GEO. H. TROUTMAN, Sheriff.
Solicitor. 47-1

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 47, October term, 1882. Libel in divorce a vinculo matrimonii. Sarah D. Day, by her next friend, Jonah Howell, v. R. Emory Day. The alias subpoena in the above case having been returned non est inventus, you, the said R. Emory Day, are hereby notified to appear at said court, on Monday, January 14, 1884, at 10 o'clock A.M., to answer the complaint therein filed.

WILLIAM O'MALLEY,
B. McMANUS, Sheriff.
Solicitor. 46-1

WIDOWS' APPRAISEMENTS.

Notice is hereby given to all persons concerned, that widows' appraisements in the following estates have been approved nisi by the Orphans' Court of Luzerne county, and, unless exceptions are filed, will be presented for final approval on Monday, the 14th day of January, 1884:

Daniel Hartman, Reuben Dresher, Peter Habel, John S. Jenkins, John R. Edwards, Peter Foy, and Jonas Brader, deceased.

JOSEPH HENDLER,
52-2 Clerk O. C.

AUDITOR'S NOTICE.

In the Common Pleas of Luzerne county. In Equity. No. 6, October term, 1876. Wm. N. Monies et al., Executors, v. A. D. King. The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county to distribute to and among the parties entitled thereto the sum of $1,402.03, paid into court in the above case by Geo. Bishop, the Receiver, by order of court, dated October 19, 1883, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, in Wilkes-Barre, on Friday, January 18th, 1884, at 10 o'clock A. M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

THOS. H. ATHERTON,
51-2 Auditor.

AUDITOR'S NOTICE.

The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county to distribute the fund arising from the Sheriff's sale of the personal property of Ann Witcraft, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, in Wilkes-Barre, Pa., on Saturday, January 26th, 1884, at 10 o'clock A. M., at which time and place all parties interested are required to appear and present their claims, or be debarred from coming in on said fund.

GEO. K. POWELL,
1-4 Auditor.

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SHERIFF'S SALES.

Abstract of property to be sold by Wm. O'Malley, Sheriff of Luzerne county, on Saturday, January 19th, A. D. 1884, at 10 o'clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are number, to wit:

1

Suit of G. R. Bedford, Trustee, v. Calvin Wadhams. 283 November term, 1883. Debt, $24,979.16. Lev. fa. 60 January term, 1884. Bedford, Att'y.

1. Being two equal undivided third parts of the surface of all the following piece of land not heretofore sold by Calvin Wadhams et al., in the city of Wilkes-Barre, beginning at a corner on the main road, formerly in the township of Wilkes-Barre, now Main street, in said city of Wilkes-Barre, thence by land of the estate of Alexander McLean, deceased, 214 6-10 perches to a corner, thence 33 3-10 perches to a corner in line of Hanover township, thence along said township line 214 6-10 perches to a stones corner on the main road, and thence by the same 33 3-10 perches to the place of beginning, containing about 43 acres of land, more or less, being part of lot No. 31 in the third division of lots in certified Wilkes-Barre township, and known as the Lockhart property.

2. The two-thirds part undivided of the surface of all that piece of land in the township of Plymouth, beginning at a corner in line of tract of land in bed of the Susquehanna river, surveyed to George Bolden, thence by land of Samuel Hoyt and Abram Nesbitt (course 1848) 197 4-100 perches to the line of tract in the bed of the river surveyed to Edward Hopper, thence by same 37 1-10 perches, thence 44 38-100 perches to the line of the Geo. Bolden tract, thence by same 48 82-100 perches, thence 34 66-100 perches, thence 29 34-100 perches to the beginning, containing 33 acres and 88 perches of land, being lot No. 41, river tier of meadow lots, certified township of Plymouth, which is part island, known as Richards' island.

3. The surface of a lot in the township of Wilkes-Barre, bounded on the northeast by Blackman street, and on the other three sides by land of the Franklin Coal Company, being about 87½ feet in front on said street, and about 145 feet deep.

4. All the right, title, and interest of the said Calvin Wadhams in the following lots remaining unsold on the Mayer & Wadhams plot of lots, known as Davis property, all of which is in said city of Wilkes-Barre, each one being (lots Nos. 3, 4, 5, and 6 situate on Hazle avenue) 50 feet in front on said street, and 150 feet deep. Lot No. 29, on the Auble road, in said city, and being 50 feet in front on said street, and 150 feet deep. Lots Nos. 30 and 31, on said Auble road, in said city, each one being 43¼ feet in front on said street, and 150 feet deep.

5. All that tract of land in the city of Wilkes-Barre, beginning at a corner in the center of the Pennsylvania canal in line between the certified townships of Wilkes-Barre and Hanover, thence along said township line in the center of a road 127 20-100 perches to a corner of land of George Shannon, thence by same 32 perches, thence 8¼ perches to a corner in line of land certified to Jesse Fell, thence 32 74-100 perches to a corner in line of land of J. W. Horton and Sarah S. Bennett, thence along said land 15-100 perches to the center of Franklin street, thence 30 9-10 perches to the center of Horton street, thence along the center of said street 40 perches to the Pennsylvania canal, thence along the center of said canal 16 37-100 perches, thence 12 37-100 perches, thence 19 88-100 perches, thence 26 6-100 perches, thence 18 3-10 perches, thence 18 8-100 perches, thence 9 32-100 perches, thence 10 24-100 perches, and thence 12 6-10 perches to the place of beginning, containing 55 acres, more or less, and being part of lots Nos. 13, 14, and 15 in first division of certified township of Wilkes-Barre. Excepting and reserving out of and from this mortgage all the coal underlying said last described bed tract, which has heretofore been sold. Also excepting and reserving out of land from same the following pieces of surface designated on the map of Raymond Place as lots Nos. 18, 19, 20, 21, 22, on Franklin street; Nos. 30, 31, 32, 58, 63, 79, and 20 feet of west side of 80 from 84, and 90, on Regent street; also 92, 127, 10 feet of east side of 136, 137, 139, 140, 155, 156, 159, 161, on Barney street, and 210 on Waller street, all of which have heretofore been sold.

2

Suit of Robert V. Thomas, to use of Catharine Evans, Administratrix, etc., v. David E. Morris.

Suit of the Empire Building and Loan Association v. David E. Morris.

Suit of Wells & Smith, Assignees, v. David E. Morris.

16 February term, 1883, 292 January term, 1881, and 559 May term, 1882. Debt, $159.18, $400, and $234.60. Fi. fas. 63, 61, and 62 January term, 1884.

D. S. Bennet, Att'y.

All that lot of land on Meade street, city of Wilkes-Barre, bounded westerly by land now or late of J. C. Wells and G. D. Morgan, southerly by an alley, easterly by land of James Welsh, and northerly by Meade street, being 40 feet front on Meade street, and about 190 feet in depth; improved, with a double two-story frame dwelling house, with basement of stone, and double outkitchen attached thereto, together with outbuildings and fruit trees thereon. 52-2

ESTATES TO BE AUDITED BY THE

Orphans' Court of Luzerne county. Notice is hereby given that accounts have been filed and confirmed absolutely by the court in the following estates:

1. Ruth T. Ross; Geo. S. Bennett and R. J. Flick, Executors; 15th January, 1884.
2. Edward Ide; Solomon P. Ide, Administrator; 15th January, 1884.
3. Ziba Major; Kate Major, Administratrix; 16th January, 1884.
4. S. S. Winchester; George K. Powell, Administrator; 16th January, 1884.
5. George Auble; John B. Quick, Administrator; 17th January, 1884.
6. William Brace; Myrtle W. Brace and Fisher Gay, Executors; 17th January, 1884.
7. John M. Clark; J. E. Halleck, Executor; 18th January, 1884.
8. Levi C. Lewis; Joshua S. Lewis, Administrator; 18th January, 1884.
9. Maria Powell; Griffith Thomas, Administrator; 18th January, 1884.
10. Thomas Stocker; F. V. Rockafellow, Administrator; 21st January, 1884.
11. Catharine Stocker; F. V. Rockafellow, Administrator; 21st January, 1884.
12. Edger W. Mandeville; Francis A. King, Trustee; 22d January, 1884.
13. Margaret Hughes; Jas. W. Delaney, Executor; 22d January, 1884.
14. Patrick Burke; James O'Donnell and Michael Hoban, Executors; 23d January, 1884.
15. Almina Santee; B. D. Koons, Administrator; 23d January, 1884.
16. John W. Davis; W. W. Amsbry, Executor; 24th January, 1884.
17. Hiram George; William H. George and Amanda George, Administrators; 24th January, 1884.

The accounts enumerated and designated in the above list will be audited by the court, in the Court House, in the Orphans' Court room, during the session of court on the days set forth opposite the name of each estate, at which time all persons interested shall attend, if they see fit, and present their claims against said estate, or forever thereafter be debarred from coming in upon said fund.

JOSEPH HENDLER,
Clerk O. C.
52-2

ESTATE OF WM. B. HARROWER, LATE OF

Ashley, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ALICE T. HARROWER,
ANDREW HUNLOCK, Ashley, Pa.
Attorney. 52-5

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SHERIFF'S SALES.

Abstract of property to be sold by Wm. O'Malley, Sheriff of Luzerne county, on Saturday, January 12th, A. D. 1884, at 10 o'clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are numbered, to wit:

1

Suit of Isaac Rice v. Julia Cantwell, as Mrs. Thomas Cantwell, now Julia Donnelly, and Peter Donnelly.
215 January term, 1884. Debt, $400.00. Fi. fa. 56
January term, 1884. Payne, Att'y.

The following lot of land on Pringle Hill, Kingston township, beginning at a corner on South street, thence in a southerly direction along the line of lands owned by Philip Hynes to land owned by the heirs of Samuel Hoyt, deceased, thence in a westerly direction along said Hoyt's land 75 feet to a corner, thence in a line parallel with the line of said Philip Hynes in a northerly direction to said South street, thence in an easterly direction in a line along said South street 75 feet to beginning; excepting and reserving all the coal and other minerals; all improved, with one two-story wood dwelling house and outbuildings thereon.

2

Suit of Michael Bradley v. Thomas L. Morgan and John J. Morgan, as Morgan & Son.
29 October term, 1883. Debt, $3,034.66. Vend. ex.
7 November term, 1883. Ryman, Att'y.

All the surface of the following lots of land in Plymouth township, viz.:

1 Bounded on the west by Plymouth street, on the north by land of David Pritchard, on the east by an alley, and on the south by a street between this lot and land of Thomas McGowan, being 60 feet in front and 140 feet deep; all improved, with three dwelling houses, fruit trees, and outhouses thereon.

2 Bounded on the east by Hunlock street, on the north by land now or formerly of John T. Davis, on the west by an alley, and on the south by land formerly of Lewis Samuels, being 60 feet in front and 140 feet in depth; all improved, with two dwelling houses thereon 51-1

COMMISSIONERS' SALE OF UNSEATED LAND.

BEAR CREEK TOWNSHIP.

Benson, Peter.	138	Brown, John.	
Capp, John.	400	Day, Benjamin.	
Downing, Reuben.	400	Doyle, William.	
Jackson, Silas.	60	Lynch, Edward.	
Stembach, Mary.	100	Thomas, Daniel.	
Tuttle, Stephen.	230	Twaddle, John.	

BUCK TOWNSHIP.

Brown, Joseph.	200	Brown, Jonathan.	
Brown, Joseph.	441	Dunwoody, John.	
Dyer, Jesse.	400	Fish, John.	
Gardner, Richard.	200	Graeffec, John.	
Reed, John	241	Reese, John.	
Terwilliger, C. L	200	Terwilliger, C. L.	
Thomas, Jonathan.	400	Wright or Wigton, J.	

BLACK CREEK TOWNSHIP.

Blair, Samuel.	424	Davis, James.✓	
Irwin, John.	200	Neidlinger, John.	
Seward, William.			

BLAKELY TOWNSHIP.

*Bell, Hannah.	380	*Weaver, Constance.	

CARBONDALE TOWNSHIP.

*Rider, Samuel.			

COVINGTON TOWNSHIP.

*Richards, Mary.			

DENISON TOWNSHIP.

Morris, William.			

DORRANCE TOWNSHIP.

Bower, Feather.	49	Catlin, Putnam.	

FAIRMOUNT TOWNSHIP.

Affick, Thomas.	34	Armat, Thomas.	
Barnes, Thomas.	400	Beach, Susannah.	
Bump, Isaac.	429	Cope, Thomas P.	
Compton, Adam J.	438	Crevling, Isaiah.	
Delap, Henry.	300	Gibbs, Benjamin.	
Goodheart, Jas. F.	170	Goodheart, Elisha.	
Goodheart, Abner.	190	Jackson, Jeremiah.	
Kerr, George A.	300	Lukins, John or Jesse	
Middleton, Edwards.	402	Thomas, William.	
Whitehall, Joseph.	200	Whitford, Wilson.	
Whitford, Jacob Geo.	400	Whitford, George.	

FELL TOWNSHIP.

*Lee, Peter.			

FOSTER TOWNSHIP.

Schrader, Michael.			

HANOVER TOWNSHIP.

Lot No. 11, 3d Div. 116		Lot No. 15, 3d Div.	

HAZLE TOWNSHIP.

Kunkle, Mary.			

HOLLENBACK TOWNSHIP.

Beach, Nathan.	237	Hays, John.	

JEFFERSON TOWNSHIP.

*Carey, Miner, Est.,	220	*Chapman, James.	
P. B. Carey, own.	85	*Conrad, Matthew.	
*Conrad, Mary.	400	*Hoyt, Samuel.	
*Irwin, Robert.	490	*Stephens, A. P.	
*Singer, Elizabeth.			

JENKINS TOWNSHIP.

Nagle, Peter.	75	Lot 26, Cert. Pittston	

LACKAWANNA TOWNSHIP.

*Levi, Daniel.			

LAKE TOWNSHIP.

Bailey, Amos.	400	Bower, Jacob.	

LEHMAN TOWNSHIP.

Not 25, Cer Bedford.	95	Lot 27, Cer. Bedford.	

MADISON TOWNSHIP.

*Bronson, Rebecca.	100	*Drinker, Lydia.	
*Paxton, Timothy.			

NEWTON TOWNSHIP.

*Gardner, Abel.	419	*King, John or James	

PITTSTON TOWNSHIP.

Gray, Robert.	68	Young, David.	

PLYMOUTH TOWNSHIP.

Lot No 42, 2d Tier, 4th Division.			

RANSOM TOWNSHIP.

*Turner, Daniel.			

ROARING BROOK TOWNSHIP.

*Hill, Henry.			

ROSS TOWNSHIP.

Beach, Nathan.	150	Bowman, Joseph.	
Bump, Aaron.	166	Bump, Isaac.	
Bump, Nathan.	401	Bump, William.	
Doway, Joseph.	92	Hazlehurst, George.	
McLaughlin, John.	203	Miller, John.	
Morris, William.	110	Paschalls, Thomas.	
Roberts, Owen.	50	Samson, William.	
Sheaf, Henry.			

SPRING BROOK TOWNSHIP.

*Benedict, Benijah.	200	*Bennett, Ishmael.	
*Bennett, Charles.	104	*Bennett, Andrew.	
*Baldy, Paul.	424	*Baab, Matthias.	
*Brownson, Timothy.	353⅓	*Christ, John.	
*Dundass, Thomas.	444	*Hall, Charles.	
*Heacock, Benjamin.	200	*Heacock, Daniel.	
*Hill or Tidel, Henry.	50	*Meehan, John O.	
*Millet, Andrew.	306	*Millet, John.	
*Richards, David.	300	*Richards, Sarah.	
*Scott, Abraham.	100	*Scott, Elias.	
*Starr, Thomas.	350	*Starr, Nathan.	
*Widner, Jacob.	424	*Young, John.	
*Young, Samuel.			

SUGARLOAF TOWNSHIP.

Allen, John.			

UNION TOWNSHIP.

McNeal, James.			

WRIGHT TOWNSHIP.

Cryder, John.	100	Diller, Adam.	
Hazlehurst, Samuel.			

*Now in Lackawanna county.

We, the undersigned, Commissioners of the county of Luzerne, do hereby give public notice that we will sell the above mentioned tracts and parts of tracts of unseated lands at public sale, at the Arbitration room, in the Court House, in the city of Wilkes-Barre, on Monday, February 4th, 1884, at 10 o'clock A. M., the time of redemption having expired.

HENRY VAN SCOY,
CASPER OBERDORFER,
THOS. W. HAINES,
Commissioners.

H. W. SEARCH,
Clerk. 51-2

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NOTICE IS HEREBY GIVEN THAT AN application will be made to one of the Judges of the Court of Common Pleas of Luzerne county, under the provisions of the Act of Assembly, entitled "An Act to provide for the incorporation and regulation of certain corporations," approved April 29, 1874, and the supplements thereto, on Monday, January 14th, 1884, at 10 o'clock A.M., for the incorporation of an intended corporation, to be called "The German Evangelical Protestant Christ Church," located in Hazleton, Pa., the character and object whereof is to worship God according to the faith, doctrines, discipline, and usages of the German Evangelical Lutheran Church and the German Reformed Church, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of said Act of Assembly and its supplements.

C. W. KLINE,
52-2 Solicitor.

NOTICE IS HEREBY GIVEN THAT AN application will be made to one of the Judges of the Court of Common Pleas of Luzerne county, under the provisions of the Act of Assembly, entitled "An Act to provide for the incorporation and regulation of certain corporation," approved April 29, 1874, and the supplements thereto, on Monday, January 14, 1884, at 10 o'olock A.M., for the charter of an intended corporation, to be called "The Pleasant Hill Academy Association," the character and objects of which are to establish and support an institution for educational purposes, and to purchase the necessary real estate and erect a suitable building or buildings thereon.

GEO. W. SHONK,
51-1 Solicitor.

NOTICE IS HEREBY GIVEN THAT AN application will be made to one of the Judges of the Court of Common Pleas of Luzerne county, under the provisions of the Act of Assembly, entitled "An Act to provide for the incorporation and regulation of certain corporations," approved April 29, 1874, and the supplements thereto, on Wednesday, January 16th, 1884, at 10 o'clock A. M., for the charter of an intended corporation, to be called "The Leek Cornet Band," of Pittston, Pa., the character and objects of which are the practice and promotion of instrumental music.

F. C. MOSIER,
51-1 Solicitor.

CHAS. D. FOSTER,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

WILLIAM S. McLEAN,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

W. S. PARSONS,
ALDERMAN,
WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, JANUARY 11, 1884. NO. 2.

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Court of Common Pleas of Luzerne County.

RINEHIMER, *assigned*, *v.* DUNN, *et al.*

1. An assignee for value of a judgment is not affected by subsequent proceedings, to which he is not a party, attaching the debt as that of his assignor.
2. The defendant cannot offset the judgment thus obtained against him in the attachment against the assignee of the judgment debt attempted to be attached, without proof that the assignment was fraudulent, or that he did not have notice of it. Neither will these facts be ground for opening the judgment.

Rule to show cause why judgment should not be opened.

The opinion of the court was delivered April 5, 1883, by

RICE, P. J.—That this rule must be discharged will become apparent upon a brief statement of the facts: On April 8, 1879, Henry Rinehimer, the legal plaintiff, obtained a verdict against the defendants. On the same day he assigned his interest in the verdict and judgment to H. B. Payne, Esq., who, after deducting his fees for the trial of the case, was to pay over the balance to Alfred Fairchild and Samuel George. Aside from the fees due to Mr. Payne, the consideration for the assignment was an antecedent indebtedness of Rinehimer to Fairchild and George.

Prior to this A. B. Leuder, one of the defendants, held two judgments on the docket of a justice of the peace against Rinehimer, one in his own right, and the other in his right as administrator.

On April 9, 1879, Leuder issued execution attachments on these two judgments and had himself summoned as garnishee in each case.

Before the trial of the suits on the attachments Leuder had notice from Mr. Payne that the judgment in the present case had

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been assigned to him, and notice was also given to the justice on the trial. Notwithstanding these facts, Mr. Leuder prosecuted the attachment suits to judgment against himself, and now asks to have the present judgment opened.

These being the facts, the cases cited to show the authority of the courts to set off one judgment against another, do not apply. The judgments in the attachment suits may be conclusive against the parties to them, but they are not conclusive against the assignee of the present judgment who was not a party to them. Therefore, whatever the form of proceeding may be, his right under his prior assignment cannot be overturned without proof that the assignment was fraudulent, or that the defendant did not have notice of it. Neither of these facts appear.

The rule is discharged.

To the *Palmer Records*, edited by Noyes F. Palmer, Esq., of Jamaica, Queens county, N. Y., we are indebted for the following sketch of William Palmer and the derivation of the name:

"In that portion of old England known as the north shire of Nottingham, in the Hundred of Basssett Laws, was the little town of Scrooby. Here, under the shadow of the manor house of the Archbishop of York (that manor house where the great Cardinal Woolsey dwelt when 'if he had served his God with half the zeal he served his king he would not in his age have been forsaken to his enemies),' was a congregation of Puritan Separatists. Scrooby may be known as the mother of American Puritans. A leading man in this congregation was one William Brewster. He had been a secretary and devoted follower of that Davidson who had clipped off the head of the one fair woman who seems destined ever to be alike the contention of historian and theme of poet—Mary of Scotland.

"The meetings at Scrooby and the preaching of Brewster soon attracted the attention and invited the interference of the authorities. From trial and tribulation there was no escape save exile. With longing eyes and heavy hearts they bid adieu to those fair

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Nottingham hills, and, crossing the channel, sought refuge in Amsterdam.

"From Nottinghamshire possibly, probably of the Scrooby congregation, came William Palmer (the ancestor of the subject of our sketch). He sailed from Plymouth, England, in 1621, in the ship *Fortune*, the second vessel after the *Mayflower*, and landed at Plymouth, Massachusetts Bay Colony, and settled in what is now known as Duxbury, Mass.

"The name Palmer it has been said is 'derived from pilgrimages,' and is not lost in the mists of antiquity. The Crusaders, in their marches to Jerusalem in the Middle Ages, from the time of Peter the Hermit to the close of the fourteenth century, had many followers who, from sacred motives, sought to see the tomb of Christ. Many of these pilgrims on their return wore palm leaves in their hats, or carried staves made from palm branches. They thus came to be called Palm-ers, or bearers of the palm.

The name soon passed into literature. Shakespeare frequently uses the word: 'My scepter for a Palmer's walking staff,' and also, 'Where do the Palmers lodge, I do beseech you?'

"In a work on 'Our English Surnames,' by C. W. Bardley, Esq., is an account of the derivation of the name Palmer, as follows: 'The various religious wanderings of solitary recluses, though belonging to a system long since faded from our English life, *find a perpetual epitaph in the directories of to-day*.' Thus we have still our Pilgrims, or 'peterins,' as the Normans termed them. We meet with Palmers any day in the streets of our large towns; names distinctly relating the manner in which their owners have derived their titles. *The Pilgrim* may have but visited the shrine of St. Thomas of Canterbury. *The Palmer*, as his name proves, had, forlorn and weary, battled against all difficulties and trod the path that led to the Holy Sepulchre,

'The faded palm branch in his hand,
Showed Pilgrim from the Holy Land.'"

The Palmer patriarchs of New England are four in number. William Palmer, who came over in 1621, as before stated; Walter Palmer, of Stonington, Connecticut, who came from Nottinghamshire, England, in 1629; Thomas Palmer, of Rowley, Mass., who came from Bradford, England, in 1635, and John

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Palmer, of Hingham, Mass. Thomas and John were brothers, and John came over in 1634 or 35.

Their descendants throughout the United States are thousands, and embrace generals, governors, judges, clergymen, physicians, and in fact, all professions, including General Grant, who is the eighth in descent from Walter Palmer's daughter Grace.

The great-great-grandfather of Henry W. Palmer was Leighton Palmer. He was, without doubt, a descendant of William Palmer, heretofore mentioned. Leighton Palmer settled at Hopkinton, R. I. His second son was Nathanial, who had a son Gideon. He was the father of seventeen children, the fifth of whom was also named Gideon, and was the father of Henry W. Palmer. Gideon W. Palmer was born in Hopkinton, R. I., April 18, 1818, and was the son of the first Gideon. His mother was Clarissa Watkins. In 1836 he removed to Susquehanna county, Pa., and in 1841 from there to Carbondale, Luzerne (now Lackawanna) county, where, for a while, he followed teaching, but as his tastes led him rather to agricultural pursuits he subsequently gave his attention to farming, actively interesting himself meanwhile in the various political questions of the day. The measures of the old Whig party were those which received his support, and he soon manifested such an influence in the councils of that organization that various offices were intrusted to him. From Constable in 1846, he became a Justice of the Peace in 1850, and in the same year was elected Sheriff of Luzerne county for three years. In 1854 he was elected a member of the Pennsylvania Legislature. When the Rebellion broke out he sided ardently with the supporters of the Union, and for several years occupied the responsible position of one of the paymasters of the United States Army, in the performance of which duty he traversed the whole country from Maine to Texas. It is worthy of remark in this connection to state that while he disbursed millions he settled with the government without the loss of a penny, either to himself or the government. In 1872, when delegates were to be chosen to the Constitutional Convention of the State, he was nominated as a Liberal Republican on the Democratic ticket, while his son, the subject of our sketch, was nominated as a delegate from the same district on the regular Republican ticket.

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Both were elected, and both contributed materially to the deliberations of the body, of which they were highly honored members. In 1838 Mr. Palmer married Elizabeth Burdick, daughter of Billings Burdick, a native of Connecticut. The couple had a family of six children, of whom five survive, two sons and three daughters, Henry W., being the oldest son. Mr. Palmer was a resident of the borough of Glenburn, Lackawanna county, at the time of his death, March 27, 1881.

Henry Wilbur Palmer was born in Clifford township, Susquehanna county, Pa., July 10, 1839. He was educated at the Wyoming Seminary and at Fort Edward Institute, New York, afterwards entering the Poughkeepsie Law School, from which institution he graduated in 1860. He was enrolled as a student in the office of ex-Judge Garrick M. Harding, and, after his graduation from the Law School, was admitted to practice in the courts of Luzerne county on August 24, 1861, the recommendation being by Andrew T. McClintock, Henry M. Hoyt, and O. Collins, who had been appointed a special committee for his examination. In 1863 and 64 he was in the army as a paymaster's clerk, in the Department of the Gulf. Returning from the field of duty he entered into partnership with his old preceptor, ex-Judge Harding, and during the five years from 1865 to 1870 the firm of Harding and Palmer was known as one of the busiest and most prosperous in northern Pennsylvania.

In 1866 he was elected a member of the School Board of the borough of Wilkes-Barre, in connection with ex-Gov. Henry M. Hoyt. His service in this capacity was marked by a close application to its duties and a spirit of progressiveness in keeping with that which had but just begun to characterize the management of public education in Wilkes-Barre, and which has since resulted in giving this city a school system in character and efficiency second to none in the Commonwealth or country.

Mr. Palmer's election as a member of the Constitutional Convention in 1872 has already been mentioned. Of that convention Charles R. Buckalew was in every respect a leader. The impress of the genius of his statesmanship is more strongly marked, perhaps, on the pages of the constitution as finally adopted than that of any other of the members. What he

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thought of the labors of his colleague, and of the man generally, can very correctly be inferred from the fact that he dedicated his recent learned publication on that constitution to Henry W. Palmer.

Mr. Palmer served on several important committees in the convention, including those on Oath of Office, Revision and Adjustment, Commissions, and Incompatibility of Office, and did distinguished service upon them all, as well as upon the floor in debate.

In 1878 Henry M. Hoyt, of Wilkes-Barre, was elected Governor of Pennsylvania for the term of four years. As the time for his inauguration and entrance upon his gubernatorial duties approached, a wide-spread interest was manifested in the question: Who is to be Attorney General? The constitution was new, and the laws that had been enacted in conformity with its innovations still newer. These circumstances made the public anxious that the always important office, being now doubly important, should be capably filled. The names of many of the oldest and most experienced lawyers of Republican proclivities were presented in connection with it, and in behalf of some of them great personal and political pressure was brought to bear upon the Governor. The latter, however, knew his friend and neighbor well, was convinced of his fitness, and chose for the coveted office Henry W. Palmer. The announcement was followed by many complaints, and by some it was alleged that a grave error had been committed, and predicted that the result would make that fact plain. That this gloomy forecast was born of disappointment, and not of knowledge of the man or his parts, will be evident from a brief reference to some of the leading incidents of Mr. Palmer's administration.

One of his first tilts as representative of the rights of the Commonwealth was against the four trunk lines, the Dunkirk, Allegheny & Pittsburg, the Lake Shore & Michigan Southern, the Atlantic & Great Western, and the Pennsylvania Railroad Companies. This was in the shape of a bill in equity filed to prevent unjust discriminations against shippers as violative of the provisions of the constitution. The companies were forced into a settlement with the parties at whose instance the bill had

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been filed, and now there are no rebates on oil or other freight allowed when offered in the same quantity.

Most readers will remember his pursuit of the Standard Oil Company for taxes aggregating $700,000, which Mr. Palmer, reading the statutes literally, held to be justly due the Commonwealth. His claim was for tax upon the entire capital stock, measured by the amount of dividend paid. The Supreme Court decreed that the company was liable only on such part of the stock as was invested in individual copartnerships, excluding all invested in stock of Pennsylvania corporations, limited copartnerships, and oil purchased for export to other States, and as the great bulk of the money of the Standard was in the items excluded, but $30,000 of the total amount sued for was recovered. That the case made out by Mr. Palmer, was, nevertheless, a strong one, and that it was very diligently and ably pressed is evident from the fact that three judges dissented from the opinion of the majority. This monster corporation which is reaping for its members, mostly residents of other States, vast fortunes from the natural riches of the Commonwealth, lives, by the aid of its numerous aliases, its powerful lobbies, and the wit and scheming of its innumerable handsomely paid attorneys practically outside the law of the State.

In the case of the Commonwealth against the Monongahela Bridge Company, at Pittsburg, the company was compelled to raise its bridge twenty-three feet in the interest of the navigation of the river it spanned.

In the case of the Commonwealth *v.* J. Campbell Harris, of Walnut street, Philadelphia, Mr. Palmer induced the court to restrain the adding of a bay window to Mr. Harris' residence, on the ground that it was an encroachment on the street, which was the property of the city. In this case it was decided that the Attorney General is the proper party to institute proceedings of such character. The councils of the city had previously given Mr. Harris permission to add the window.

Mr. Palmer was especially active in pushing the tax claims of the Commonwealth. By a construction of the act of 1879, which the court, on hearing, upheld, the Pennsylvania Railroad Company was compelled to pay into the treasury the sum of

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$140,000, which it had disputed the right of the Commonwealth to collect.

In Commonwealth *v.* Kilgore, Treasurer of Allegheny county, license taxes to the amount of $58,000, which the county had refused to pay, were secured to the treasury.

The Reading Railroad Company was made to disgorge $60,000, tax on gross receipts. In this case the receivers then in control of the affairs of the company unsuccessfully sought the interference of the United States Courts.

During his term of office $700,000 was collected in suits of this character, or more than any other Attorney General had ever collected, and settlement was made with the State without the loss of a penny.

Among the most conspicuous features of his record was his raid upon the Bogus Medical Colleges and the Death Rattle Insurance Companies. Two more infamous institutions never disgraced the State. By the aid of the former the Commonwealth was overrun with impudent and conscienceless charlatans, whose pretended practice of the medical and surgical arts, besides being seriously injurious to legitimate practitioners, was continually draining the pockets of the poor and unfortunate, and sacrificing their life and limbs. By the latter, cunning scoundrels in almost every county played upon the cupidity of the unwary, and amassed vast gain. Fraud and forgery, and even murder, were encouraged by their nefarious transactions. Neighbor was turned against neighbor, and friend against friend. Children were made to hope for, and even encourage, the death of their aged parents. A people hungry for unearned wealth and lacking every honorable principle was necessary to the success of the bad men who managed the odious business, but such people can be developed in every community, if their tempters are permitted to go unnoticed by the law and unwhipped by justice; and, as a consequence, Pennsylvania became a by-word and a reproach all over the Union because of its tacit tolerance of such scoundrelism, for though Mr. Palmer's predecessors had essayed their overthrow, for some lacking it had been in vain. When he undertook the task he proceeded with such relentless vigor that before the end of his term not a bogus diploma-manufacturing

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concern was left, and the death rattle scoundrels had been scattered to the four winds of heaven.

Mr. Palmer construed the law to mean that members of the Legislature are entitled to but $1,000 pay for each regular session, no matter to how many days the session may be prolonged. At the close of the long session of 1880, therefore, a writ of *mandamus* was procured against the State Treasurer, under which the question was argued before the Supreme Court, the State Treasurer having previously refused payment to the legislators pending the determination of the question, under advice of the Attorney General. The judges in their final decision took the opposite view, Judge Trunkey dissenting, and the legislators were afterwards paid for one hundred and fifty days, at the rate of $10 per day; although many constitutional lawyers then held, and still maintain, that Mr. Palmer's position was the correct one.

All these and many other acts of Mr. Palmer's fearless and energetic administration of the office of Attorney General raised up against him not a few enemies, and one of the results of that fact was the appointment, in 1881, of two legislative committees of enquiry, one with reference to the salary case and questions growing out of it, and the other to enquire as to whether he was entitled to the commissions paid him in the Commonwealth tax cases, similar commissions having been paid to his predecessors without question as to their right to them. The first of these committees reported nothing to his discredit, and the other never reported at all.

Mr. Palmer was the youngest man, probably, who ever held the distinguished position. It is doubtful whether any other ever showed greater capacity for its requirements. Certainly none have excelled him in courage, or have achieved more or greater success in their legal battles for the Commonwealth against its aggressors.

At the expiration of his term as Attorney General, Mr. Palmer returned to, and is still engaged at, the practice of his profession, in Wilkes-Barre.

He is the senior member of the firm of Palmer, Dewitt and Fuller, and is counsel for numerous corporations, among them the Pennsylvania, the Lehigh Valley, the Delaware, Lackawanna &

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Western Railroad Companies, the New York & Pennsylvania Canal and Railroad Company, the Lehigh & Wilkes-Barre Coal Company, and the Susquehanna Canal Company. From this large and distinguished clientage his earnings must be lucrative.

He is a man of business and enterprise, too, outside the law. He is at present a director in the Miners' Savings Bank, and has held that office in the Wilkes-Barre Savings Bank and People's Bank of this city. He takes an active interest in railroad matters and was conspicuously identified with the building of the new North & West Branch Railroad Company, now operated by the Pennsylvania Railroad Company, of which corporation he is now a director. He is one of the corporators of the Bloomsburg & Bernice Railroad, which is designed to develop the lumber regions of Luzerne and Sullivan counties, and to open up new coal lands in both, and which bids fair to bring a handsome return to the investors. He is likewise a director in the proposed Wyoming, Yellowstone & Pacific Railroad Company. This road is to be some four hundred miles in length, and will run from Rawlins, on the Union Pacific, to the Yellowstone Park, past the famed Soda Lakes and through the iron, coal, and oil territory of that vast and yet virgin region. It is expected to be commenced before August 1, of the current year, and completed within two years from that time. The capital stock is $12,000,000, most of which has been secured from investors in Great Britain. The road has a charter from the Territory of Wyoming, and is the only road projected from the South to the Yellowstone Park. Hon. L. D. Shoemaker, of this city, is its president.

Mr. Palmer is a married man and man of family, having taken to wife on September 12, 1861, Ellen M., daughter of George W. Webster, of Plattsburg, N. Y. Mr. Webster is a native of New Hampshire. They have five children living, three girls and two boys. Three others are dead. The oldest living is now a young lady of twenty. He is a vestryman in St. Stephen's Episcopal Church, Wilkes-Barre, and has frequently been a delegate to diocesan conventions of that faith.

It falls to the lot of comparatively few men to achieve, at so early a period in their careers such marked distinction as attaches

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to the name and record of Henry Wilbur Palmer, who is at this writing but 44 years old. The qualities that have made him so unusually successful are manifold, but principal among them are his great common sense, his undaunted courage, both in assault and defense, his contempt of all shams, and his fine powers of invective. As a pleader, either to judge or jury, he is remarkably successful, his pleadings being always pointed, pithy, and directed to the capacity in others, from which they are drawn to himself; which is to say, to their common sense. He is a highly favored convention and stump orator. As the latter, he has delivered some of the most effective arguments ever presented in the behalf of the Republican party, of whose principles and destinies he has always been a devoted follower. He is in great request, also, as a speaker before benevolent and literary associations, and has found time amid his manifold business duties to prepare and deliver under these auspices numerous polished and instructive addresses. He is excellent company, and while a man of his vigor of intellect and combative disposition is necessarily never without his enemies and detractors, Mr. Palmer lives, in the estimation of very many ardent friends and his neighbors generally, a good and useful citizen and a capable and reliable attorney.

Court of Common Pleas of Schuylkill County.

SCHAEFFER *v.* SCHAEFFER.

After testimony has been taken before an examiner in a divorce case and filed in court, it is too late to demand an issue.

Rule for an issue.

The opinion of the court was delivered September 4, 1882, by

PERSHING, P. J.—The subpoena in this case was issued November 14, 1881, and served on the defendant, who appeared. On February 6, 1882 (after the return day, not before, as suggested by defendant's counsel), W. K. Woodbury, Esq., was appointed examiner to take the testimony. Both the parties, with their

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respective counsel, appeared before him on February 14, when the testimony of all the witnesses offered, being those of the libellant alone, was taken. On May 2d, notice was given to counsel for the defendant that the depositions would be filed in court, which was done on May 15. On May 18, the respondent filed his answer, denying generally the charges contained in the libel, on which answer the above rule was obtained. The libellant contends that the demand for an issue came too late after the taking of the testimony and the filing of the examiner's report in court. In Allison *v.* Allison (10 Wr. 321), it was held that a party in a divorce proceeding has a right to an issue to try disputed facts, but he is bound to exercise his right reasonably and with vigilance. Justice Thompson said: "The taking of testimony before a commissioner was a step in the hearing before the court also. I will not say that, after that, the party might not be entitled to an issue. But if anything appeared in the course of the testimony which made an issue desirable, he ought at once to have withdrawn, giving the opposite party notice of his intention to apply, and make his application to the court at the earliest possible moment thereafter. If, on the contrary, a party be in court by appearance, or there is a service on him, and he makes no application for an issue until after the testimony has been taken and the court is about to determine the case, it is too late then to demand an issue. Expense of testimony having been incurred in a regular course of proceeding, to postpone the determination then would be to incur new expense, and to produce injurious delays oftentimes." We think it unnecessary to refer to other cases of the same tenor. In the case in hand, it appears that between the time of the taking of the depositions and their filing in court, three months passed by. No offer was made during this time by the respondent to take testimony, nor was an issue demanded. We all think this application is made out of the proper time.

Rule discharged, and issue refused.

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COMMON PLEAS TRIAL LIST—FEBRUARY TERM, 1884.

FIRST WEEK—FEBRUARY 11, 1884.

NO.	PL'FFS' ATT'YS.	PLAINTIFFS.	DEFENDANTS.	DEF'TS' ATT'YS.	NO.	TERM.	YR.	ACTION.	PLEA.
1	Hahn	Charles Redmer	G. B. Markle & Co.	D. & A	368	Nov	1882	Appeal	Nil debit, payment with leave, &c.
2		J. H. Barnes	Wilson J. Smith	O'Neill	444	May	1883	Appeal	Non ass., payment with leave, setoff.
3	Payne, O'Neill	Central Poor District	Condy Gallagher et al	Osborne	459	Nov	1877	D. S. B	Non est factum
4	Troutman	Jane Job	Holmes & Passage	Lamb	696	Oct	1883	Interpleader	Usual plea.
5	W.	Luzerne O. M. Co.	D. S. W. Jones	Darlings, W.	1734	Sept	1878	Ejectment	Non cul.
6	Gates	Jos. Monroe et ux	J. S. Koons	Miller	308	Sept	1880	Ejectment	Not guilty.
7	J. T. L	Christian Thiel	City of Wilkes-Barre	McLean	475	April	1881	Case	Not guilty.
8	J. L.	Samuel Kester	Wesley Benscoter	Gates	488	Sept	1881	Appeal	Non assumpsit.
9	D. & A	John Elliott	Central Poor District	O'Neill	82	Feb	1882	Appeal	Non assumpsit.
10	J. T. L	Thomas Lyons	Township Wilkes-Barre	Hines	426	May	1882	Debt	Non assumpsit, payment with leave.
11		John Murray	Cath. Y. M. L. & B. Soc'y	Harding, McG	496	May	1882	Appeal	Non assumpsit.
12	Hand	D. T. Haldeman	Joseph O'Donnell	Harding, McG	600	May	1882	Appeal	Non assumpsit, pay't with leave, &c.
13	Gates	David McDaniels	Daniel Sutliff	Harding, McG	121	June	1882	Tresp. vi et armis	Not guilty.
14	Gates	F. A. Beamish	Central Express Co.	Harding, McG	115	Oct	1882	Case	Not guilty.
15	Brundage	Joseph Rape et ux	John Smith et al	Harding, McG	548	Oct	1882	Ejectment	Not guilty.
16	Gates, J.	Charles Elliott	W. L. Paine	Shonk	815	Oct	1882	Appeal	Not gui ty, non assumpsit.
17	R.	Clara S. Berlin	Abram Nesbitt et al	Payne	346	Nov	1882	Ejectment	Not guilty.
18	Martin	Henry Borneisen, dec'd	Henry Maus et al	Brundage	193	Jan	1883	Appeal	Not guilty.
19	P., D. & F., P., P.	A. L. C. Winchester et al	Penn'a Coal Co. et al	McC., D. & A. D.	28	Mar	1883	Ejectment	Not guilty.
20		M. D. May	C. M. Driggs et al	Halsey	130	Mar	1883	Appeal	Non assumpsit.
21	Halsey	Job Kocher	John Kocher et al	Hayes, J. T. L.	72	May	1883	Ejectment	Not guilty.

SECOND WEEK—FEBRUARY 18, 1884.

1	Ricketts	Edward Laughlin	J. S. Miller	Gates	477	Feb	1871	D. S. B	Nil debit, payment with leave, &c.
2	T. H. B. L., H	Use W. D. & E. F. Brown	Nautilius Slutter et al	Foster	597	Nov	1877	D. S. B	Payment.
3	Walker	George L. Lines	J. C. Laubaugh	O'Neill, T.	679	April	1880	Appeal	Non ass., payment with leave, setoff.
4	Powell, Payne	Harrison Brandon	Hiram Croop	Osborne	478	Sept	1880	Tr. vi et ar., &c.	Not guilty.
5	Chase	Wm. Stuart	Henry Johnson et al	B. & N.	188	May	1881	Ejectment	Not guilty.
6	Gates	Minerva Kitchen	G. L. Field	Farnham	361	Jan	1882	Appeal	Non assumpsit, pay't with leave, &c.
7	Harding, McG	George Hughes	Jacob Shellhammer	Payne	218	May	1882	Appeal	Non ass., pay't w. leave, setoff, &c.
8	Harvey	Boltz, Clymer & Co	Jane Hill	J. T. L.	492	May	1882	Appeal	Non assumpsit.
9	Shonk	Thomas M. Bonham	P. M. Austin et al	Osborne	522	May	1882	Ejectment	Not guilty.
10	McL. & J., B	Use of Charles Ahlborn	A. M. Krueger	R. & C.	42	June	1882	Appeal	Not guilty.
11	Shonk	Asahel Rood	I. A. Long	O'Neill	151	June	1882	Ejectment	Not guilty.
12	Payne, O'Neill	William Miles	Edward Miles	D.	180	Oct	1882	D. S. B	Nil debit, payment with leave, &c.
13	Lynch	Samuel Yost	J. D. Warner	Powell	642	Oct	1882	Appeal	Nil debit, payment with leave, &c.
14	O'Neill	Margaret Signisky	D. P. Kinney	Harding, McG	818	Oct	1882	Appeal	Non assumpsit, pay't with leave, &c.
15	McGahren	Joseph Hendler	Charles Parrish & Co	P., D. & F	14	Jan	1883	Case	Non ass., pay't, pay't w. leave, setoff.
16	Powell	A. Nesbitt, Ad., et al	Anthony Welsh, dec'd	J. L. L.	237	Feb	1883	Sci. fa. sur judgt	Payment.
17	P., D. & F	Rothschild Bros.	Patrick Gallagher	J. T. L.	80	Mar	1883	Debt	Nil debit.
18	E. A. L	John Zell	Township Black Creek	Farnham	166	Mar	1883	Case	Not guilty.
19	McManus	Owen Marley	Richard Walsh et al	J. L. L.	170	Nov	1883	Appeal	Non assumpsit, payment with leave.

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SHERIFF'S SALES.

Abstract of property to be sold by Wm. O'Malley, Sheriff of Luzerne county, on Saturday, January 19th, A. D. 1884, at 10 o'clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are number, to wit:

1

Suit of G. R. Bedford, Trustee, v. Calvin Wadhams. 283 November term, 1883. Debt, $24,079.16. Lev. fa. 60 January term, 1884. Bedford, Att'y.

1. Being two equal undivided third parts of the surface of all the following piece of land not heretofore sold by Calvin Wadhams et al., in the city of Wilkes-Barre, beginning at a corner on the main road, formerly in the township of Wilkes-Barre, now Main street, in said city of Wilkes-Barre, thence by land of the estate of Alexander McLean, deceased, 214 6-10 perches to a corner, thence 33 3-10 perches to a corner in line of Hanover township, thence along said township line 214 6-10 perches to a stones corner on the main road, and thence by the same 33 3-10 perches to the place of beginning, containing about 43 acres of land, more or less, being part of lot No. 31 in the third division of lots in certified Wilkes-Barre township, and known as the Lockhart property.

2. The two-thirds part undivided of the surface of all that piece of land in the township of Plymouth, beginning at a corner in line of tract of land in bed of the Susquehanna river, surveyed to George Bolden, thence by land of Samuel Hoyt and Abram Nesbitt (course 1848) 197 4-100 perches to the line of tract in the bed of the river surveyed to Edward Hopper, thence by same 37 1-10 perches, thence 44 38-100 perches to the line of the Geo. Bolden tract, thence by same 48 82-100 perches, thence 34 66-100 perches, thence 29 34-100 perches to the beginning, containing 33 acres and 88 perches of land, being lot No. 41, river tier of meadow lots, certified township of Plymouth, which is part island, known as Richards' island.

3. The surface of a lot in the township of Wilkes-Barre, bounded on the northeast by Blackman street, and on the other three sides by land of the Franklin Coal Company, being about 87½ feet in front on said street, and about 145 feet deep.

4. All the right, title, and interest of the said Calvin Wadhams in the following lots remaining unsold on the Mayer & Wadhams plot of lots, known as Davis property, all of which is in said city of Wilkes-Barre, each one being (lots Nos. 3, 4, 5, and 6 situate on Hazle avenue) 50 feet in front on said street, and 150 feet deep. Lot No. 29, on the Auble road, in said city, and being 50 feet in front on said street, and 150 feet deep. Lots Nos. 30 and 31, on said Auble road, in said city, each one being 43¼ feet in front on said street, and 150 feet deep.

5. All that tract of land in the city of Wilkes-Barre, beginning at a corner in the center of the Pennsylvania canal in line between the certified townships of Wilkes-Barre and Hanover, thence along said township line in the center of a road 127 20-100 perches to a corner of land of George Shannon, thence by same 32 perches, thence 8¼ perches to a corner in line of land certified to Jesse Fell, thence 32 74-100 perches to a corner in line of land of J. W. Horton and Sarah S. Bennett, thence along said land 15-100 perches to the center of Franklin street, thence 30 9-10 perches to the center of Horton street, thence along the center of said street 40 perches to the Pennsylvania canal, thence along the center of said canal 16 37-100 perches, thence 12 37-100 perches, thence 19 88-100 perches, thence 26 6-100 perches, thence 18 3-10 perches, thence 18 8-100 perches, thence 9 32-100 perches, thence 10 24-100 perches, and thence 12 6-10 perches to the place of beginning, containing 55 acres, more or less, and being part of lots Nos. 13, 14, and 15 in first division of certified township of Wilkes-Barre. Excepting and reserving out of and from this mortgage all the coal underlying said last described bed tract, which has heretofore been sold. Also excepting and reserving out of land from same the following pieces of surface designated on the map of Raymond Place as lots Nos. 18, 19, 20, 21, 22, on Franklin street; Nos. 30, 31, 32, 58, 63, 79, and 20 feet of west side of 80 from 84, and 90, on Regent street; also 92, 127, 10 feet of east side of 136, 137, 139, 140, 155, 156, 159, 161, on Barney street, and 210 on Waller street, all of which have heretofore been sold.

2

Suit of Robert V. Thomas, to use of Catharine Evans, Administratrix, etc., v. David E. Morris.

Suit of the Empire Building and Loan Association v David E. Morris.

Suit of Wells & Smith, Assignees, v. David E Morris.

16 February term, 1883, 292 January term, 1881, and 559 May term, 1882. Debt, $159.18, $400, and $234.60 Fi. fas. 63, 61, and 62 January term, 1884.

D. S. Bennet, Att'y.

All that lot of land on Meade street, city of Wilkes Barre, bounded westerly by land now or late of J. C Wells and G. D. Morgan, southerly by an alley, east erly by land of James Welsh, and northerly by Meade street, being 40 feet front on Meade street, and abou 190 feet in depth; improved, with a double two-story frame dwelling house, with basement of stone, and double outkitchen attached thereto, together with out buildings and fruit trees thereon. 52-

ESTATES TO BE AUDITED BY THE

Orphans' Court of Luzerne county. Notice is hereby given that accounts have been filed and con firmed absolutely by the court in the following estates

1. Ruth T. Ross; Geo. S. Bennett and R. J. Flick Executors; 15th January, 1884.
2. Edward Ide; Solomon P. Ide, Administrator 15th January, 1884.
3. Ziba Major; Kate Major, Administratrix; 16th January, 1884.
4. S. S. Winchester; George K. Powell, Adminis trator; 16th January, 1884.
5. George Auble; John B. Quick, Administrator 17th January, 1884.
6. William Brace; Myrtle W. Brace and Fisher Gay Executors; 17th January, 1884.
7. John M. Clark; J. E. Halleck, Executor; 18th January, 1884.
8. Levi C. Lewis; Joshua S. Lewis, Administrator 18th January, 1884.
9. Maria Powell; Griffith Thomas, Administrator 18th January, 1884.
10. Thomas Stocker; F. V. Rockafellow, Adminis trator; 21st January, 1884.
11. Catharine Stocker; F. V. Rockafellow, Admin istrator; 21st January, 1884.
12. Edger W. Mandeville; Francis A. King, Trus tee; 22d January, 1884.
13. Margaret Hughes; Jas. W. Delaney, Executor 22d January, 1884.
14. Patrick Burke; James O'Donnell and Michae Hoban, Executors; 23d January, 1884.
15. Almina Santee; B. D. Koons, Administrator 23d January, 1884.
16 John W. Davis; W. W. Amsbry, Executor 24th January, 1884.
17. Hiram George; William H. George and Amand George, Administrators; 24th January, 1884.

The accounts enumerated and designated in th above list will be audited by the court, in the Cou House, in the Orphans' Court room, during the sessio of court on the days set forth opposite the name of eac estate, at which time all persons interested shall attend if they see fit, and present their claims against sai estate, or forever thereafter be debarred from comin in upon said fund.

JOSEPH HENDLER,
52-2 Clerk O. C.

ESTATE OF WM. B. HARROWER, LATE O

Ashley, deceased.

Letters of administration upon the above name estate having been granted to the undersigned, all pe sons indebted to said estate are requested to mak payment, and those having claims or demands to pr sent the same, without delay, to

ALICE T. HARROWER,
ANDREW HUNLOCK, Ashley, Pa.
Attorney. 52-

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LICENSES.

Notice is hereby given that the following persons have filed their applications for license to keep hotels and restaurants, and to sell liquor by the quart, in the office of the Clerk of the Court of Quarter Sessions of the county of Luzerne, and that said applications will be heard by the court on Monday, January 28th, 1884:

HOTELS.

McManus	Conrad Fey	Dorrance Tp.
Hayes	A. C. Heiney	Freeland.
"	Frederick Haas	"
Hayes	H. & T. Elliott	Foster Tp.
"	William Lorenz	"
"	Anthony Rudewick	"
J. Lynch	Charles Murrin	"
J. T. L	James Cartwright	"
Martin	Paul Gruver	Hollenback Tp.
Kline	A. Muhl & Graaf	Hazleton.
"	Frederick Kepping	"
Kisner	Michael McGarrity	"
McManus	John Ballentine	"
Brundage	C. J. Volkenand	"
Hakes	Wm. Jones, Jr	Hanover Tp.
Jenkins	H. A. Laycock	Kingston Tp.
O'Neill	Jenkin B. Jones	Miners Mills.
Moore	Charles J. Meighan	"
J. Lynch	Lewis Hodges	Nanticoke.
J. Lynch	Mary Keating	Plymouth Tp.
Mosier	E. M. Sinclair	Pittston.
J. Lynch	John McGoven	Parsons.
Campbell	Jacob Stetzer	Wilkes-Barre.
O'Neill	George Ferstenfeld	"
"	John Tite	"
Mahon	Stephen Zeller	"
B. & W	John Storz	"
Darte, Jr	John E. Hunter	"
Coons	S. E. Kennedy	"
McLean	Charles Howard	"
"	Robert McCadden	"
D. & A	Annie Harvey	"
G. H. Butler	Henry D. Higgins	"
Robinson	Jacob Rieg	"
H. & McG	B. F. Dilley	"
J. T. L	Henry Lewis	"
Robinson	John Kenney	"
Phoenix	Lewis Zeller	"
J. T. L	Henry Ridmauer	"
Evans	Andrew Hahn	"
J. T. L	John Mailander	"

RESTAURANTS.

Hines	Patrick Blich	Ashley.
"	Baptist Engle	"
Harding	Patrick McGovern	"
Plumb	James Tredinrick	"
Kline	Andw. W. Bechtloff	Butler Tp.
Kisner	Bryan Martin	"
Hayes	George Hess	"
J. Lynch	Owen Boyle	Black Creek Tp.
Hayes	Libor Winters	Freeland.
"	Frank McShea	"
"	Condy McCool	"
"	Ralph Marley	"
"	Patrick Carey	"
"	Joseph Collins	"
"	J. Wadelinger	"
Jones	Wm. Morgan	"
J. Lynch	Frank Gallagher	"
Gones	Raphael Depierro	"
Hayes	Frank Kenny	Foster Tp.
"	P. F. Harvey	"
"	Jane Defoy	"
McManus	Andrew Breslin	"
Fuller	Patrick Higgins	"
Kline	Vincenz Mattoxi	Hazleton.
"	Lloyd Fox	"
"	Frank Orawitz	"
"	Charles Ermish, Sr.	"
"	Michael Angelo	"
"	John Lapp	"
"	Jacob Schmidt	"
"	John Lapp, 2d	"
Troutman	Henry Shafer	"
Hahn	Jacob Rosenstock	"
McManus	John Cannon	Hazleton.
"	Reinhard Bertrom	"
"	Patrick Gallagher	"
"	John Conohan	"
"	Daniel Duffy	"
J. T. L	John Healy	"
Kisner	Anthony McHale	Hazle Tp.
Hines	Thomas Powell	Hanover Tp.
McLean	Thomas Timlin	Kingston.
J. T. L	Patrick Hefron	Kingston Tp.
Hines	Wm. J. Stephens	"
Harding	Charles Barney	Luzerne.
Chapin	C. R. Eder	Nanticoke.
"	John A. Gruver	"
"	Vincent Viczbolowicz	"
"	Robert Holsworth	"
"	Anton Schwartz	"
"	Peter Haslem	"
Strauss	John Kryniki	"
E. A. L	Jos. Navjusgeski	"
J. Lynch	Wm. Williams	"
Magee	John Hlowak	Plymouth.
Burke	Wm. Brennan	Plymouth Tp.
J. L. L	Michael Kelley	"
"	Mary Regan	"
J. T. L	Bridget Bilbow	"
Koon	James Fairbrother	Pittston.
"	Edward Gallagher	"
"	Peter Joyce	"
"	Patrick Reap	"
" Butler	Mary Ann Russell	"
Mahon	J. & W. Hill	Parsons.
H. & McG	Patrick Corrigan	Plains Tp.
Harding	William Wright	"
J. S. H	Maria O'Malley	"
Plumb	George Fenton	"
J. L. L	P. H. Flaherty	Pleasant Valley.
O'Neill	Peter Boyce	Sugar Notch.
J. T. L	Andrew Umberust	Wilkes-Barre.
Campbell	Lewis C. Engle	"
J. Lynch	Jacob Geier	"
Hines	Thos. Featherstone	"
Osborne	Thos. Dudlick	"
Harding	Ellen Hughes	"
Jones	Jennettee Williams	"
McLean	Joseph Chrink	"
Strauss	Thomas Gethins	"
Hahn	George Russ	"
J. T. L	James Flynn	"
Hines	John Dawson	Wilkes-Barre Tp.
"	John Kelley	"
J. T. L	William Dempsey	White Haven.

BY THE QUART.

Brundage	Fowler & Hassenplug	Black Creek Tp.
Hayes	Maurice Ferry	Freeland.
"	Charles Vandoski	"
"	Patrick Dougherty	"
"	James Collins	"
Hayes	John Ferry	Foster Tp.
"	Anthony Surman	"
"	Condy Gaffney	"
"	Peter Burns	"
"	John Shigo	"
Halsey	Peter Timony	"
"	Philip Kennedy	"
McLean	Daniel Shovlin	"
McManus	John Brown	"
J. T. L	Austin Harvey	"
"	Condy Brennan	"
Kline	John Kennedy	Hazleton.
"	A. Slowitzky & Bro.	"
"	Matthew Long	"
McManus	Michael McHugh	"
"	Daniel McGeehan	"
"	Thomas McHale	"
"	Peter Brady	"
"	Patrick McCoy	"
J. T. L	Con Kelley	"
"	Patrick McHugh	"
Reynolds	Francis Roth	Kingston.
McLean	Jos. R. Thomas	Kingston Tp.
J. Lynch	Thomas Gaffey	Nanticoke.
J. L. L	John McGoven	Plymouth Tp.

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J. L. L	Patrick Riley	Plymouth Tp.
Hughes	J. W. Davis	Pittston.
Brundage	Buchanan & Rhoads	Parsons.
Mahon	Michael Corrigan	Plains Tp.
McLean	Cornelius Burke	Wilkes-Barre.
J. T. L	C. A. Gaughan	"
O'Neill	Charles McNamee	"
Coons	Brian McManaman	"
McLean	Patrick Peoples	"
Hines	Joseph Featherstone	"
J. T. L	Robert Howe	"
Strauss	L. Lewith	"
McCartney	W. M. Miller	"
Jones	William Griffith	"
Strauss	Anthony C. Helfrich	"
Hines	John Mackin	Wright Tp.

BOTTLERS.

Hayes	John Yannes	Freeland.
Kline	Philip Mane	Hazleton.
"	C. Krapf	"
J. Lynch	J. J. Gaughan	Jenkins Tp.
Koon	Patrick Moylan	"
Chapin	Ball & Gross	Nanticoke.
Gates	A. M. Bryden	Pittston.
Koon	Joseph J. Kern	"
"	John Nash	"
O'Neill	William Golden	Pleasant Valley.
O'Neill	James Ward	"
Campbell	Martin Bauer & Son	Wilkes-Barre.
J. T. L	George Knorr	"
Hahn	F. Thorn	"
Jones	William Griffiths	"

L. K. STRENG,
1-3 Clerk Q. S.

ESTATE OF HANNAH MEEKER, LATE OF Fairmount township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES MEEKER,
1-6 Lehman, Pa.

ESTATE OF BILLY HARRISON, LATE OF Huntington township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. J. WILKINSON,
1-6 Bloomingdale, Pa.

ESTATE OF CLARA ROOD, FORMERLY Wiant, late of Fairmount township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

DENNIS WIANT,
1-6 Harveyville, Pa.

ESTATE OF ABIAH SUTLIFF, LATE OF Ross township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. J. WILKINSON,
1-6 Bloomingdale, Pa.

ESTATE OF SUSAN WOLF, LATE OF UNION township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. H. WOLF,
1-6 Lehman, Pa.

ESTATE OF MARTIN T. MITCHELL, LATE of Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

LEWIS COHEN,
S. J. STRAUSS, Pittston, Pa.
Attorney. 50-3

ESTATE OF WILSON W. WEBB, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELIZABETH WEBB,
S. J. STRAUSS, Wilkes-Barre, Pa.
Attorney. 50-3

ESTATE OF ISABELLA MITCHELL, LATE of Plains township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

R. C. MITCHELL.
E. P. & J. V. DARLING, Plainsville, Pa.
Attorneys 50-3

ESTATE OF JOHN BOONE, LATE OF THE township of Black Creek, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ANNIE BOONE,
GEO. H. TROUTMAN, Rock Glen, Pa.
Attorney. 50-3

ESTATE OF JOSEPH B. KELLEY, LATE OF Plymouth township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELBERT C. DOUGLAS,
GEO. W. SHONK, Lovelton, Pa.
Attorney. 51-4

ESTATE OF CATHARINE WILLIAMS, LATE of Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN J. POWELL,
GEO. S. FERRIS, Pittston, Pa.
Attorney. 52-5

ESTATE OF ANN HARTLAND, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

OBIDIAH HARTLAND,
51-4 Wilkes-Barre, Pa.

ESTATE OF JANE PRICE, LATE OF THE borough of Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHAS. H. FOSTER,
E. P. & J. V. DARLING, Pittston, Pa.
Attorneys. 52-5

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ESTATE OF WM. B. HARROWER, LATE OF Ashley, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ALICE T. HARROWER,
ANDREW HUNLOCK, Ashley, Pa.
Attorney. 52-5

ESTATE OF GARNER H. SNYDER, LATE of Plymouth, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEO. W. SHONK,
3-5 Plymouth, Pa.

ESTATE OF AMY WILKINSON, LATE OF Ross township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. J. WILKINSON,
1-6 Bloomingdale, Pa.

ESTATE OF JOHN MITCHELL, LATE OF Plains township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN L. MITCHELL,
W. W. AMSBRY,
E. P. DARLING, Plains, Pa.
Attorney. 50-3

ESTATE OF JOHN L. JONES, LATE OF Freeland, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WILLIAM L. JONES,
JOHN D. HAYES, Freeland, Pa.
Attorney. 3-8

ESTATE OF MARGARETTA RITTERSBACHER, late of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

FREDERICK G. SMITH,
3-6 Wilkes-Barre, Pa.

ESTATE OF MARY ANN DAVIS, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ABRAM NESBIT,
GEORGE K. POWELL, Kingston, Pa.
Attorney. 3-8

ESTATE OF FRANCIS R. S. WINTERS, LATE of Franklin township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WM. H. BODLE,
3-7 Orange, Pa.

ESTATE OF GEORGE COREY, LATE OF West Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

E. A. CORAY,
W. H. CORAY,
E. S. OSBORNE,
Attorney. 2-7

ESTATE OF ELIZABETH BULKELEY, LATE of Wilkes-Barre, deceased.

TO WHOM IT MAY CONCERN.—Take notice, that the Orphans' Court of this county, on the 14th of January, 1884, granted a rule to show cause why the real estate of the decedent should not be sold for the payment of debts and legacies returnable to Saturday, the 26th inst., at 10 o'clock A. M.

S. J. STRAUSS,
3 Attorney.

ESTATE OF DAVID SHELLHAMMER, LATE of the township of Black Creek, deceased.

By virtue of an order of the Orphan's Court of Luzerne county, the undersigned will expose to public sale, on the premises, on Thursday, the 7th day of February, A. D. 1884, at 10 o'clock A. M., all that piece of land, in the township of Black Creek, beginning at a white oak tree, a corner of land of Perry Boone, standing north of a public road; thence by lands of said Perry Boone, 28 perches to a white pine tree; thence by lands of the same, 9 3-10 perches to a white pine tree; thence by same, 29 8-10 perches to a rock oak corner tree; thence by same, 28 1-10 perches, crossing a public road and Nescopeck creek, to a hemlock corner tree on the westerly bank of said creek; thence by land of John Hart, 23 perches up said creek to a stone in said creek; thence by the same, 14 perches to a stone corner; thence by land of the estate of Samuel Shellhammer, deceased, 82 perches, crossing a public road and also Mahonoy state road, to a stone corner; thence by lands of Peter Roberts, 76 perches to a stone corner; thence by land of William Forsythe, 29 5-10 perches, crossing Nescopeck creek, to a stone corner on the north bank of Nescopeck creek; thence by the lands of the said Perry Boone, 67 perches to a stone corner on top of bank of old mill race; thence by same lands, 5 2-10 perches, crossing said race and a public road, to the place of beginning; containing 31 acres and 100 perches strict measure, having erected thereon a large frame building, used as a mill; a frame dwelling house, barn and outhouses.

TERMS OF SALE.—10 per cent. of the whole purchase money down at time of sale; 30 per cent. on confirmation of sale and delivery of deed; 30 per cent. in one year, and 30 per cent. in two years from confirmation of sale, with interest from day of confirmation of sale; deferred payments to be secured by bond and mortgage on the premises.

STEPHEN TURNBACH,
PERRY BONE,
Executors of the Estate of David Shellhammer, dec'd.
ELLIOTT P. KISNER,
Attorney. 3-5

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Jacob Meyer, and that said license will be asked for in the court aforesaid, on Monday, January 28, 1884, at 10 o'clock A. M.

S. J. STRAUSS,
2-3 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Peter Rockman, and that said license will be asked for in the court aforesaid, on Monday, January 28, 1884, at 10 o'clock A. M.

JOHN T. LENAHAN,
3-4 Attorney.

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ESTATE OF PETER HEBEL, LATE OF THE borough of Hazleton, deceased.

By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the law office of C. W. Kline, in the borough of Hazleton, Pa., on Saturday, the 9th day of February, A. D. 1884, at 2 o'clock P. M., the following pieces of land:

No. 1.—All that lot of ground, in the borough of Hazleton, being lot No. 6 in square No. 13 in the general plan of said borough, commencing at a distance of 166 feet 8 inches westward from the northwest corner of Broad and Cedar streets, containing, in front or breadth on said Broad street, 33 feet 4 inches, and extending of that breadth in length or depth northwardly 150 feet to Spruce alley; bounded north by Spruce alley, east by lot No. 5, south by Broad street, and west by lot No. 7. Improved by a two-story frame dwelling, used as saloon and dwelling, and necessary outhouses.

No. 2.—Is directly in rear of lot above described, being all that lot of ground, in the borough of Hazleton aforesaid, being lot No. 6 in square No. 4 in the plan of said borough, commencing at the distance of 200 feet eastward from the east side of Pine street, containing in front or breadth on Spruce alley 33 feet 4 inches, and extending of that breadth in length or depth northwardly 150 feet to Green street. No buildings.

TERMS OF SALE.—50 per cent. of purchase money down on day of sale, balance on confirmation of sale and delivery of deed.

CATHARINE M. HEBEL,
Administratrix.

C. W. KLINE,
Attorney.

3-5

ESTATES TO BE AUDITED BY THE Orphans' Court of Luzerne county. Notice is hereby given that accounts have been filed and confirmed absolutely by the court in the following estates:

1. William R. Covell; Chas. A. Miner, Administrator; 5th February, 1884.

2. Sarah Diehl; William Diehl, Administrator; 5th February, 1884.

3. John S. Jenkins; Hannah L. Jenkins, Administratrix; 6th February, 1884.

4. Ferdinand Brune; Sarah D. Brune, Executrix; Kenard J. Ross and Geo. S. Ferris, Executors; 6th February, 1884.

5. Elizabeth Thomas; Reuben Thomas, Administrator; 7th February, 1884.

6. Abram Goodwin; Abram Goodwin, jun., Administrator; 7th February, 1884.

7. R. C. Sutliff; A. R. Pennington, Administrator; 8th February, 1884.

8. Margaret Brown; James Black and John M. Brown, Executors; 8th February, 1884.

9. John Louder; B. F. Louder, Trustee in partition; 11th February, 1884.

10. Elisha Atherton; E. A. Atherton and F. B. Dills, Executors; 11th February, 1884.

11. Olmstead Dickinson; C. B. Dickinsou, Administrator; 12th February, 1884.

12. Peter Rockell; Wm O'Malley, Trustee in partition; 12th February, 1884.

The accounts enumerated and designated in the above list will be audited by the court, in the Court House, in the Orphans' Court room, during the session of court on the days set forth opposite the name of each estate, at which time all persons interested shall attend, if they see fit, and present their claims against said estate, or forever thereafter be debarred from coming in upon said fund.

JOSEPH HENDLER,
Clerk O. C.

3-5

WIDOWS' APPRAISEMENTS.

Notice is hereby given to all persons concerned, that widows' appraisements in the following estates have been approved nisi by the Orphans' Court of Luzerne county, and, unless exceptions are filed, will be presented for final approval on Monday, the 4th day of February, 1884:

Lewis R. Lewis, Morgan L. Reese, Henry Smith, and Joseph Hawk, deceased.

JOSEPH HENDLER,
Clerk O. C.

3-5

AUDITOR'S NOTICE.

The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county to distribute the fund arising from the Sheriff's sale of the personal property of Ann Witcraft, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, in Wilkes-Barre, Pa., on Saturday, January 26th, 1884, at 10 o'clock A. M., at which time and place all parties interested are required to appear and present their claims, or be debarred from coming in on said fund.

GEO. K. POWELL,
Auditor.

1-4

AUDITOR'S NOTICE.

The undersigned, an auditor appointed by the Court of Common Pleas of Luzerne County to distribute the fund arising from the Sheriff's sale of the personal property of George S. Burgan, hereby gives notice that he will attend to the duties of his appointment, at his office on Franklin street, in Wilkes-Barre, Pa., on Tuesday, February 12th, 1884, at 10 o'clock A. M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

JOS. D. COONS,
Auditor.

3-6

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 700, October term, 1883. Libel in divorce a vinculo matrimonii. Sarah J. McFarlane, by her next friend, George L. Philips, *v.* John McFarlane. The alias subpoena in the above case having been returned, "That the said John McFarlane cannot be found in Luzerne county." You, the said John McFarlane, respondent, are required to appear on Monday, February 11, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERENDER,
Sheriff.

GEO. K. POWELL,
Attorney

3-6

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 47, October term, 1882. Libel in divorce a vinculo matrimonii. Sarah Day, by her next friend, Jonah Howell, *v.* R. E. Day. To R. E. Day—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the subpoena having falled on account your absence. Returnable on Monday, January 28, 1884, at 10 o'clock A. M.

B. McMANUS,
Solicitor.

3-4

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county No. 776, October term, 1883. Libel in divorce a vinculo matrimonii. Hannah Tiffany, by her next friend John Moore, *v.* Perry Tiffany. The alias subpoena in the above case having been returned, "That the said Perry Tiffany cannot be found in Luzerne county." You, the said Perry Tiffany, respondent, are required to appear on Monday, February 11, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERENDER,
Sheriff.

E. D. NICHOLS,
Attorney.

3-

CHAS. D. FOSTER,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

WILLIAM S. McLEAN,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, JANUARY 25, 1884. No. 4.

Supreme Court of Pennsylvania.

COMMONWEALTH *v.* HENRY FLACKE.

Indictment for selling liquor without license.

A bottler of "cider, perry, ale, porter, or beer" must make application to the court upon petition, endorsed by twelve of his fellow-citizens, as a man of temperate habits, and of good moral character. It must appear by certificate that such license is necessary, and before the license is granted, he must give bond with sureties conditioned for the faithful observance of the law regulating the sale of this kind of liquor.

Error to the Court of Quarter Sessions of Warren county.

The defendant admits that at the time of making the sales for which this indictment is found he was a bottler of beer and ale, and not otherwise engaged in the sale of intoxicating liquors, nor in keeping any tavern, oyster-house or cellar, restaurant or place of amusement, entertainment, or refreshment, and that the sales, as made by the defendant, were only of beer and ale, and by the single bottle and case, and not to be drank on the defendant's premises, nor at any place provided by him for that purpose. That the bottles sold, as above admitted, were pint bottles and quart bottles, as the purchaser desired, those being the sizes which defendant used in his bottling business. That at the time of making such sales, defendant had a bottler's license issued to him by the treasurer of Warren county, of which the following is a copy, viz.:

COMMONWEALTH OF PENNSYLVANIA, }
Warren County. }

Be it known, that Henry Flacke, of Warren, has paid me for the use of the Commonwealth fifty dollars, which entitles him to

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bottle cider, perry, ale, porter, or beer, and sell the same by the bottle, or domestic wines and cider by the gallon, for one year from November 23, 1881, to November 23, 1882, agreeably to the Act of Assembly in such cases made and provided.

IN WITNESS WHEREOF, I hereunto set my hand, and affix my official seal, at Warren, this 23d day of November, A. D. 1881.

F. M. KNAPP, *Treasurer.*

Treasurer's fees, 25 cents. Appraiser's fees, 50 cents.

Also, that the defendant gave no bond prior to obtaining the said license to the Commonwealth, as required by the fourth section of the act of 1875. That the place of business of defendant was in the borough of Warren, and the sales above mentioned were there made.

Evidence closed.

The court (BROWN, P. J.) charged the jury as follows:

A *nolle prosequi* has been entered on the first, second and third counts of the indictment, and we have now only to do with the fourth count, which charges that the defendant, on the 1st of August, 1882, and on divers other days before and since that time, at the borough of Warren, in the county of Warren, did unlawfully sell and retail vinous, spirituous, brewed, and malt liquors, without first having obtained a license so to do.

There is no evidence of any sale of vinous or spirituous liquors.

The defendant admits that he did, at the time and place charged in this count of the indictment, make sales of malt and brewed liquors by the single pint bottle, and by the single quart bottle, as the same was desired by the purchasers, as well as by the case. That he was a bottler of beer at the time of making such sales, holding a license issued to him by the treasurer of the county, substantially in the following words:

COMMONWEALTH OF PENNSYLVANIA, }
Warren County. }

To all persons to whom these presents shall come: Be it known, That Henry Flacke, of Warren, has paid me for the use of the Commonwealth fifty dollars, which entitles him to bottle cider, perry, ale, porter, or beer, and sell the same by the bottle,

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or domestic wines or cider by the gallon, for one year from November 23, 1881, to November 23, 1882, agreeably to the Act of Assembly in such cases made and provided.

IN WITNESS WHEREOF, I hereunto set my hand, and fix my official seal, at Warren, this 23d day of November, A. D. 1881.

F. M. KNAPP, *Treasurer.*

Treasurer's fees, 25. Appraiser's fees, 50.

The defendant admits that the pint and quart bottles sold singly to purchasers were of the sizes used by him in his bottling business, that the defendant was not otherwise engaged in the sale of intoxicating liquors, nor in keeping any tavern, oyster-house or cellar, restaurant or place of amusement, entertainment, or refreshment, and that the sales, as made by the defendant, were only of beer and ale, by the single bottle and case, and not to be drank on the defendant's premises, nor at any place provided by him for that purpose.

Under the admitted facts, it becomes a question of law whether the defendant is or is not guilty of the offense of selling malt or brewed liquors without a license so to do, and it is the duty of the court to advise you on this question.

By the thirty-second section of the Act of Assembly, regulating the sale of intoxicating liquors, passed the 31st of March, 1855, it is provided "that no person pursuing exclusively the business of bottler of cider, perry, ale, porter, or beer, and not at the same time following or engaging in any way in the business of keeping any hotel, inn, or tavern, restaurant, oyster-house, or cellar, or place of entertainment, amusement, or refreshment, shall be required to take out a license under the provisions of this law."

By a supplement to the act of 1856, passed on the 20th of April, 1858, it is provided "that manufacturers and producers of cider and domestic wines, and bottlers of cider, perry, ale, porter, or beer, not otherwise engaged in the sale of intoxicating liquors, nor in keeping any tavern, oyster-house, or cellar, restaurant or place of amusement, entertainment, or refreshment, shall be allowed to sell the same by the bottle, or domestic wines and cider by the gallon, without taking out license."

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Under the act of 1856, before referred to, it is provided "that such persons," that is, bottlers of cider, perry, ale, porter, or beer, "shall not sell or deliver said cider, perry, ale, porter, or beer in less quantities than a dozen bottles at one time, nor permit any of said liquors to be drank upon the premises occupied in said business."

You will notice that, by the act of 1858, the bottlers shall be allowed to sell by the bottle without taking out a license.

Next in order comes the act of 1867, which provides "that if any person, after the passage of this act, shall sell spirituous or vinous liquors, domestic wines, malt or brewed liquors, without having obtained a license authorizing him so to do, such persons shall, on conviction in the Court of Quarter Sessions, be fined" so and so.

In our view of the law, this act is entirely repugnant to the provisions of the act of 1858, because, by the act of 1858, bottlers of brewed and malt liquors were entitled to sell without any license. The act of 1867 provides that license shall first be obtained in order to entitle a party to sell malt or brewed liquors.

We next come to the act of 1875, which provides in the second section "that licenses for sales of liquors, when not otherwise provided for by special law, may be granted by the Court of Quarter Sessions of the proper county, at the first or second session in each year, and shall be for one year."

Now, unless there is a special provision in the law for the granting of licenses to bottlers to which attention has not been called, we take it that the licenses must be granted by the court, as is provided by this section of the act of 1875.

Section 4 of the act of 1875 provides "that any sale made of vinous, spirituous, malt, or brewed liquors, or any admixture thereof, contrary to the provisions of this law, shall be taken to be a misdemeanor, and upon the conviction of the offense in the Court of Quarter Sessions of the Peace of any city or county, the person so offending shall be sentenced to pay a fine," etc. From the examination of the acts referred to, we are of the opinion that the license issued by the treasurer to the defendant as a bottler did not, and does not, authorize him to make sale of malt and brewed liquors by the single pint and quart bottle, as desired

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by the purchasers, and that in so doing he is guilty as charged in the indictment with selling malt and brewed liquors without license. We are strengthened in this conclusion by the consideration of the extreme care taken by the Legislature, in guarding the public against the abuses and dangers incident to the unrestricted retail traffic in malt and brewed, as well as spirituous liquors. The applicant for an eating-house or restaurant license to sell malt and brewed liquors, must be a citizen of the United States. He must give notice of his application. He must come into court endorsed by twelve of his fellow-citizens, as a man of temperate habits, and of good moral character. It must appear by certificate that such license is necessary, and before the license is granted, he must give bond with sureties conditioned for the faithful observance of the law regulating the sale of this kind of liquor. But if the law is, as claimed by the counsel for the defendant in this case, correct, then any and every person, citizen and non-citizen, temperate or intemperate, honest or dishonest, may engage in the business of selling malt and brewed liquors by the drink, simply by paying to the treasurer the sum of fifty dollars, provided only that the drink shall be furnished in a bottle instead of a glass, and that it shall be drank outside the premises of the vendor instead of at his counter or table.

We think that such is not the law, and say to you that, under the admitted facts of the case, the defendant is guilty as charged in the fourth count of the indictment.

Defendant's point answered in the negative.

Defendant's counsel excepts to the charge of the court, and answers to point.

PER CURIAM.—We concur in the correctness of the law as declared in the charge of the court. The facts are unquestioned. Therefore, on the opinion of the learned Judge, judgment affirmed.

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Court of Common Pleas of Luzerne County.

IN RE INSOLVENCY OF DANIEL SULLIVAN *et al.*

A defendant sentenced to pay a fine and costs cannot apply for a discharge under the insolvent laws until after he has been in actual confinement for three months. But if the fine is under fifteen dollars, he may be *discharged from confinement* after an imprisonment of thirty days.

The opinion of the court was delivered January 14, 1884, by

RICE, P. J.—The defendants were each sentenced to pay a fine of two dollars and the costs, and to make restitution, on an indictment for forcible entry and detainer. They now propose to pay the fines, and ask for an immediate discharge under the insolvent law. This we have no authority to direct. The 47th section of the act of June 16th, 1836 (P. L. 740, P. D. 784, pl. 56) forbids it. The language is, "That where such persons shall have been sentenced to pay a fine . . . he shall not be entitled to make such application until after he shall have been in actual confinement in pursuance of such sentence for a period not less than three months." It has recently been held that, where a party has been sentenced to pay costs only, he may apply at once for a discharge under the insolvent laws. Commonwealth *v.* Trout, 12 *Luz. Leg. Reg.* 196, 2 Kulp 377. However that may be, and we are not at present called upon to adopt or reject the ruling, the case of a person sentenced to pay a fine is quite different, and rests upon the unambiguous terms of the act of 1836 above quoted. Under this act, and the construction which the courts have given to it, the petitioners cannot apply for a discharge under the insolvent laws until after they have been in actual confinement for three months; the fines, however, being under fifteen dollars, they will be entitled, under the 48th section of the same act, *to be discharged from confinement*, after an imprisonment of thirty days, provided a non-compliance with the sentence as to restitution does not stand in the way. (See County of Schuylkill *v.* Reifsnyder, 10 Wr. 450, and cases there cited.)

For these reasons, the applications for discharge from custody are for the present refused.

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SHERIFF'S SALES.

Abstract of property to be sold by J. S. Oberender, Sheriff of Luzerne county, on Saturday, February 16th, A. D. 1884, at 10 o'clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are numbered, to wit:

1

Suit of Samuel Line, Administrator of the estate of Martha Fairchild, deceased, v. Charles Garringer.

373 January term, 1884. Debt, real, $2,987.50. Fi. fa. 85 January term, 1884.

Bennett & Nichols, Att'ys.

All those two lots of land in the borough of Nanticoke, 1, beginning at a corner on the east side of the township road leading to Lines station on the L. & S. road, thence along the line of said township road 72 feet to a corner, thence about 144 feet to an alley, thence along line of same 72 feet to a corner, thence 143 feet 7½ inches to the place of beginning; containing about 10,368 square feet of land: improved, and having erected thereon one two-story frame dwelling, with fruit trees; excepting and reserving the coal and other minerals.

2. Beginning at a corner on the east side of said township road, thence along line of same 119 feet 7 inches to a corner, thence 147 feet 4½ inches to an alley, thence 121 feet 1 inch to a corner, thence about 144 feet to the place of beginning; containing about 17,616 square feet of land; improved, and having erected thereon one two-story frame dwelling, one frame barn, with fruit trees; excepting and reserving coal and other minerals.

NOTE.—The land first above described is lot 49 and part of lot 50, and that second above described is lots 51, 52, and part of lot 50 on plot laid out by the Susquehanna Coal Company, and the whole of the land above described is the same as that embraced in a mortgage of Charles Garringer to Martha Fairchild.

2

Suit of Thomas Ford v. Isabel M. Geddis and Hattie D. Geddis.

135 November term, 1880. Debt, $736.61. Fi. fa. 89 January term, 1884. Ferris, Att'y.

1. All the surface of that lot of land in the borough of West Pittston, beginning at a corner in line of Boston avenue, thence along lot of H. E. and I. M. Geddis 200 feet to a corner, thence along an alley 50 feet to a corner, thence 200 feet to said Boston avenue, and thence along the same 50 feet to the place of beginning; containing 10,000 square feet of surface of the same more or less.

2. All that lot of land in the borough of West Pittston, beginning at a corner in line of Boston avenue 300 feet, and 14 feet in the direction of south, 33 degrees east from the Tunkhannock road, thence 200 feet to a 25 feet alley, thence along said alley 100 feet to a corner, thence 100 feet to said Boston avenue, and thence along the same 100 feet to the place of beginning; containing 20,000 square feet of land more or less; being lots Nos. 54 and 56 on Boston avenue; reserving all coal and other minerals; all improved, and having erected thereon a two-story frame dwelling house, back kitchen attached, and other outbuildings.

3

Suit of Charles Smith v. Charles W Lathrop.

59 April term, 1879. Debt, $48. Fi. fa. 93 January term, 1884. Foster, Att'y.

All the following one-half interest of the lot of land, being two acres of land, in Lehman township, beginning at a stake on the main road leading from Huntsville to Harvey's Lake on the line of land owned by Wesley Lameraux, thence along the line of said Lameraux's land in a southwesterly direction 32 rods to a corner, thence in a northeasterly direction 10 rods to a corner, thence in a northwesterly direction 32 rods to a corner on said main road, thence in a southwesterly direction along said line 10 rods to the place of beginning.

4

Suit of A. F. Peters & Son, assigned to C. W. Kline, Attorney for Watsontown Planing Mill Company, v. Ernest Shadel.

140 May term, 1882. Debt, $159. Al. fi. fa. 5 February term, 1884. Kline, Att'y.

All that lot of land in the township of Foster, near Freeland, beginning at a corner on the east side of Birkbeck street and about 331½ feet south of land now owned by Thomas Birkbeck, thence on Birkbeck street 92 feet to a corner, thence by lands of Joseph Birkbeck's east 127¾ feet to a corner of land belonging to Highland Coal Company, thence by same 92 feet to a corner, thence by lands of Joseph Birkbeck's estate 129½ feet to the place of beginning; containing 11,831 square feet of land more or less; all improved, and having erected thereon one two-story frame dwelling house, privy, stable, outbuildings, and fruit trees.

5

Suit of Jacob Crause v. E. K. Shellhammer and Augustus Crause, Administrators of Samuel Shellhammer, deceased.

425 October term, 1883. Debt, $465.55. Al. fi. fa. 96 January term, 1884. Payne, Att'y.

1. All that tract of land in Black Creek township, beginning at a pitch pine, thence by land of Peter Smoyer 207 perches to a stone corner on line of Wm. Shellhammer, thence by land of Wm. Shellhammer and Peter Roberts 62 5-10 perches to a stone corner on land of David Shellhammer, thence by said David Shellhammer's land 88 5-10 perches to a corner, thence 12 perches to corner in line of John Hart, thence by land of said Hart 82 perches to stones, thence 45 3-10 perches to corner, thence 14 8-10 perches to stones corner, thence by land of E. K. Shellhammer 52 4-10 perches to stones on land of Abram Smith, thence by said Smith's land 100 perches to place of beginning; containing 106 acres and 35 perches; about 65 acres improved, with two two-storied wood dwelling houses, a wood barn, one saw mill, wagon shed and corn crib, and other outbuildings; two apple orchards; occupied by Samuel Shellhammer when he died.

2. All that tract of land in Black Creek township, beginning at a pitch pine corner on land of David Shellhammer, running thence by David Shellhammer's land 101 perches to a pitch pine corner, thence 41 perches to a maple corner, thence by land of William Reagan 118 perches to stones, thence 15 perches to corner on lands of Samuel Shellhammer, thence by said Shellhammer's land 52 4-10 perches to stones corner, thence 14 8-10 perches to stones, thence 18 6-10 perches to a hemlock, thence 10 perches to stones, thence 11 9-10 perches to a corner common to lands of John Hart and Samuel Shellhammer, thence by land of John Hart 49 perches to a walnut, thence 18 3-10 perches to a stones, thence 62 perches to land of Perry Boone, thence by said Boone's land 69 perches to place of beginning; containing 87 acres and 130 perches; about 25 acres improved, with two two-storied wood dwelling houses, one wood barn, one wagon shed, one wood stable, one bone mill, one apple orchard.

6

Suit of Isaac Tripp, now assigned to Sarah E. Atherton v. E. A. Coray.

41 October term, 1881. Debt, $6105 64. Vend. ex. 3 February term, 1884. Payne, Att'y.

All the following described piece of land in Exeter township, bounded easterly by the Susquehanna river, westerly by lands of William Heisler and George Hill, northerly by lands of George Miller, William Hepler and E. A. Coray, and southerly by lands of Casper Oberdorfer; containing 115 acres of land more or less; about one-half improved with one wood dwelling house, one wood barn, and one old wood barn thereon. 4-6

AUDITOR'S NOTICE.

The undersigned, an auditor, appointed by the Court of Common Pleas of Luzerne county to distribute the fund arising from the Sheriff's sale of the personal property and real estate of James Garrahan and Thos. Garrahan, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, in Wilkes-Barre, Pa., on Monday, February 25th, 1884, at 10 o'clock A. M., at which time and place all parties interested are required to appear and present their claims, or else be debarred from coming in on said fund.

JOHN S. HARDING,
4-7 Auditor.

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ORPHAN'S COURT SALE.

Estate of Mary Culver, deceased. By virtue of an order of the Orphan's Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Friday, the 15th day of February, 1884, at 10 o'clock A. M., the following piece of land in the township of Ross, bounded on the north by lands of Jacob Ely and Jeremiah Sickler estate, on the east by lands of Henry Long and Hillman Moss, on the south by lands of Nathan Culver and Warren Hoffman; all improved, except about 15 acres in woodland; containing about 44 acres, together with the appurtenances, a 1½-story frame house, and a small orchard.

TERMS OF SALE.—One-half the purchase money down at the time of sale, balance on confirmation of sale and delivery of deed.

ELISHA CULVER,
DORRANCE & PRICE, Administrator.
Attorneys. 4-6

ESTATE OF PETER HEBEL, LATE OF THE borough of Hazleton, deceased.

By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the law office of C. W. Kline, in the borough of Hazleton, Pa., on Saturday, the 9th day of February, A. D. 1884, at 2 o'clock P. M., the following pieces of land:

No. 1.—All that lot of ground, in the borough of Hazleton, being lot No. 6 in square No. 13 in the general plan of said borough, commencing at a distance of 166 feet 8 inches westward from the northwest corner of Broad and Cedar streets, containing, in front or breadth on said Broad street, 33 feet 4 inches, and extending of that breadth in length or depth northwardly 150 feet to Spruce alley; bounded north by Spruce alley, east by lot No. 5, south by Broad street, and west by lot No. 7. Improved by a two-story frame dwelling, used as saloon and dwelling, and necessary outhouses.

No. 2.—Is directly in rear of lot above described, being all that lot of ground, in the borough of Hazleton aforesaid, being lot No. 6 in square No. 4 in the plan of said borough, commencing at the distance of 200 feet eastward from the east side of Pine street, containing in front or breadth on Spruce alley 33 feet 4 inches, and extending of that breadth in length or depth northwardly 150 feet to Green street. No buildings.

TERMS OF SALE.—50 per cent. of purchase money down on day of sale, balance on confirmation of sale and delivery of deed.

CATHARINE M. HEBEL,
C. W. KLINE, Administratrix.
Attorney. 3-5

ESTATE OF DAVID SHELLHAMMER, LATE of the township of Black Creek, deceased.

By virtue of an order of the Orphan's Court of Luzerne county, the undersigned will expose to public sale, on the premises, on Thursday, the 7th day of February, A. D. 1884, at 10 o'clock A M., all that piece of land, in the township of Black Creek, beginning at a white oak tree, a corner of land of Perry Boone, standing north of a public road; thence by lands of said Perry Boone, 28 perches to a white pine tree; thence by lands of the same, 9 3-10 perches to a white pine tree; thence by same, 29 8-10 perches to a rock oak corner tree; thence by same, 28 1-10 perches, crossing a public road and Nescopeck creek, to a hemlock corner tree on the westerly bank of said creek; thence by land of John Hart, 23 perches up said creek to a stone in said creek; thence by the same, 14 perches to a stone corner; thence by land of the estate of Samuel Shellhammer, deceased, 82 perches, crossing a public road and also Mahonoy state road, to a stone corner; thence by lands of Peter Roberts, 76 perches to a stone corner; thence by land of William Forsythe, 29 5-10 perches, crossing Nescopeck creek, to a stone corner on the north bank of Nescopeck creek; thence by the lands of the said Perry Boone, 67 perches to a stone corner on top of bank of old mill race; thence by same lands, 5 2-10 perches, crossing said race and a public road, to the place of beginning; containing 31 acres and 100 perches strict measure, having erected thereon a large frame building, used as a mill; a frame dwelling house, barn and outhouses.

TERMS OF SALE.—10 per cent. of the whole purchase money down at time of sale; 30 per cent. on confirmation of sale and delivery of deed; 30 per cent. in one year, and 30 per cent. in two years from confirmation of sale, with interest from day of confirmation of sale; deferred payments to be secured by bond and mortgage on the premises.

STEPHEN TURNBACH,
PERRY BONE,
Executors of the Estate of David Shellhammer, dec'd.
ELLIOTT P. KISNER,
Attorney. 3-5

ESTATE OF HANNAH MEEKER, LATE OF Fairmount township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES MEEKER,
1-6 Lehman, Pa.

ESTATE OF BILLY HARRISON, LATE OF Huntington township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. J. WILKINSON,
1-6 Bloomingdale, Pa.

ESTATE OF CLARA ROOD, FORMERLY Wiant, late of Fairmount township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

DENNIS WIANT,
1-6 Harveyville, Pa.

ESTATE OF ABIAH SUTLIFF, LATE OF Ross township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. J. WILKINSON,
1-6 Bloomingdale, Pa.

ESTATE OF SUSAN WOLF, LATE OF UNION township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. H. WOLF,
1-6 Lehman, Pa.

ESTATE OF JOSEPH B. KELLEY, LATE OF Plymouth township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELBERT C. DOUGLAS,
GEO. W. SHONK, Lovelton, Pa.
Attorney. 51-4

ESTATE OF ANN HARTLAND, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

OBIDIAH HARTLAND,
51-4 Wilkes-Barre, Pa.

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ESTATE OF CATHARINE WILLIAMS, LATE of Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN J. POWELL,
GEO. S. FERRIS, Pittston, Pa.
Attorney. 52-5

ESTATE OF JANE PRICE, LATE OF THE borough of Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHAS. H. FOSTER,
E. P. & J. V. DARLING, Pittston, Pa.
Attorneys. 52-5

ESTATE OF WM. B. HARROWER, LATE OF Ashley, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ALICE T. HARROWER,
ANDREW HUNLOCK, Ashley, Pa.
Attorney. 52-5

ESTATE OF GARNER H. SNYDER, LATE of Plymouth, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEO. W. SHONK,
52-5 Plymouth, Pa.

ESTATE OF AMY WILKINSON, LATE OF Ross township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. J. WILKINSON,
1-6 Bloomingdale, Pa.

ESTATE OF JOHN L. JONES, LATE OF Freeland, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WILLIAM L. JONES,
JOHN D. HAYES, Freeland, Pa.
Attorney. 3-8

ESTATE OF FRANCIS R. S. WINTERS, LATE of Franklin township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WM. H. BODLE,
2-7 Orange, Pa.

ESTATE OF JAMES MOYER, LATE OF Hollenback township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ABRAHAM MOYER,
AARON MOYER,
A. R. BRUNDAGE, Hobbie, Pa.
Attorney. 4-9

ESTATE OF GEORGE COREY, LATE OF West Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

E. A. CORAY,
W. H. CORAY,
E. S. OSBORNE,
Attorney. 2-7

ESTATE OF MARGARETTA RITTERSBACHER, late of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

FREDERICK G. SMITH,
3-8 Wilkes-Barre, Pa.

ESTATE OF MARY ANN DAVIS, LATE OF Wilkes-Barre, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ABRAM NESBIT,
GEORGE K. POWELL, Kingston, Pa.
Attorney. 3-8

ESTATE OF JAMES GIVENS, LATE OF Hazleton, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BRIDGET GIVENS,
4-9 Hazleton, Pa.

ESTATE OF WILLIAM STONE, LATE OF Hazle township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES STONE,
4-9 Stockton, Pa.

ESTATE OF ISAAC KREIDLER, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE KREIDLER,
4-9 Wilkes-Barre, Pa.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Peter Rockman, and that said license will be asked for in the court aforesaid, on Monday, January 28, 1884, at 10 o'clock A. M.

JOHN T. LENAHAN,
3-4 Attorney.

WIDOWS' APPRAISEMENTS.

Notice is hereby given to all persons concerned, that widows' appraisements in the following estates have been approved nisi by the Orphans' Court of Luzerne county, and, unless exceptions are filed, will be presented for final approval on Monday, the 4th day of February, 1884:

Lewis R. Lewis, Morgan L. Reese, Henry Smith, and Joseph Hawk, deceased.

JOSEPH HENDLER,
3-5 Clerk O. C.

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LICENSES.

Notice is hereby given that the following persons have filed their applications for license to keep hotels and restaurants, and to sell liquor by the quart, in the office of the Clerk of the Court of Quarter Sessions of the county of Luzerne, and that said applications will be heard by the court on Monday, January 28th, 1884:

RESTAURANTS.

Hayes . . .	J. Wadelinger . . .	Freeland.
O'Neill . . .	Peter Boyce	Sugar Notch.

BOTTLERS.

McGahren . .	John Connell	Pittston.
O'Neill . . .	William Golden . .	Pleasant Valley.
" . . .	James Ward	"
McLean . . .	John King	"
Jones	William Griffiths . .	Wilkes-Barre.

L. K. STRENG,
Clerk Q. S.

1-3

ESTATES TO BE AUDITED BY THE Orphans' Court of Luzerne county. Notice is hereby given that accounts have been filed and confirmed absolutely by the court in the following estates:

1. William R. Covell; Chas. A. Miner, Administrator; 5th February, 1884.
2. Sarah Diehl; William Diehl, Administrator; 5th February, 1884.
3. John S. Jenkins; Hannah L. Jenkins, Administratrix; 6th February, 1884.
4. Ferdinand Brune; Sarah D. Brune, Executrix; Kenard J. Ross and Geo. S. Ferris, Executors; 6th February, 1884.
5. Elizabeth Thomas; Reuben Thomas, Administrator; 7th February, 1884.
6. Abram Goodwin; Abram Goodwin, jun., Administrator; 7th February, 1884.
7. R. C. Sutliff; A. R. Pennington, Administrator; 8th February, 1884.
8. Margaret Brown; James Black and John M. Brown, Executors; 8th February, 1884.
9. John Louder; B. F. Louder, Trustee in partition; 11th February, 1884.
10. Elisha Atherton; E. A. Atherton and F. B. Dills, Executors; 11th February, 1884.
11. Olmstead Dickinson; C. B. Dickinsou, Administrator; 12th February, 1884.
12. Peter Rockell; Wm. O'Malley, Trustee in partition; 12th February, 1884.

The accounts enumerated and designated in the above list will be audited by the court, in the Court House, in the Orphans' Court room, during the session of court on the days set forth opposite the name of each estate, at which time all persons interested shall attend, if they see fit, and present their claims against said estate, or forever thereafter be debarred from coming in upon said fund.

JOSEPH HENDLER,
Clerk O. C.

3-5

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 700, October term, 1883. Libel in divorce a vinculo matrimonii. Sarah J. McFarlane, by her next friend, George L. Philips, *v.* John McFarlane. The alias subpoena in the above case having been returned, "That the said John McFarlane cannot be found in Luzerne county." You, the said John McFarlane, respondent, are required to appear on Monday, February 11, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERENDER,
Sheriff.

GEO. K. POWELL,
Attorney.

3-6

AUDITOR'S NOTICE.

The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county to distribute the fund arising from the Sheriff's sale of the personal property of Ann Witcraft, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, in Wilkes-Barre, Pa., on Saturday, January 26th, 1884, at 10 o'clock A. M., at which time and place all parties interested are required to appear and present their claims, or be debarred from coming in on said fund.

GEO. K. POWELL,
Auditor.

1-4

AUDITOR'S NOTICE.

The undersigned, an auditor appointed by the Court of Common Pleas of Luzerne County to distribute the fund arising from the Sheriff's sale of the personal property of George S. Burgan, hereby gives notice that he will attend to the duties of his appointment, at his office on Franklin street, in Wilkes-Barre, Pa., on Tuesday, February 12th, 1884, at 10 o'clock A. M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

JOS. D. COONS,
Auditor.

3-6

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 47, October term, 1882. Libel in divorce a vinculo matrimonii. Sarah Day, by her next friend, Jonah Howell, *v.* R. E. Day. To R. E. Day—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the subpoena having failed on account your absence. Returnable on Mcnday, January 28, 1884, at 10 o'clock A. M.

B. McMANUS,
Solicitor.

3-4

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 776, October term, 1883. Libel in divorce a vinculo matrimonii. Hannah Tiffany, by her next friend, John Moore, *v.* Perry Tiffany. The alias subpoena in the above case having been returned, "That the said Perry Tiffany cannot be found in Luzerne county." You, the said Perry Tiffany, respondent, are required to appear on Monday, February 11, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERENDER,
Sheriff.

E. D. NICHOLS,
Attorney.

3-6

CHAS. D. FOSTER,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

WILLIAM S. McLEAN,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

W. S. PARSONS,
ALDERMAN,
WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, FEBRUARY 1, 1884. No. 5.

Court of Common Pleas of Luzerne County.

HIRAM CASTNER *v.* WILLIAM FANNING.

1. A summons issued and was served in debt: the defendant pleaded a setoff, after which the summons was changed so as to read "trover." *Held*, that the proceeding was unauthorized, and the irregularity could be shown by evidence taken on depositions.

2. Quare: Has a justice power to amend by changing the form of action?

Certiorari.

The opinion of the court was delivered April 4, 1881, by

RICE, P. J.—On the face of the record returned in obedience to this writ, we discover no error or irregularity which would warrant us in disturbing the judgment. Generally the court cannot go outside the record to correct what may seem even to be an injustice. But there are exceptions, and this case seems to come within them. The admitted exceptions are thus stated by Judge Pearson in Shell v. McConnell, 1 Pears., Dec. 27, "You may show that the magistrate had or had not jurisdiction; that the case was pending before another justice. You may also show corruption or partiality on the part of the justice; *or that his docket* was falsely kept. The court must go into inquiries *per testes* to show that the magistrate has exceeded his jurisdiction, or acted partially or corruptly, or has made up a false record. To refuse this would, in many cases, shut out the light." See also Knight v. Parry, 1 Ash. 221, December, Jones ibid 215. In Lacock v. White, 7 H. 495, Black, C. J., in collaterally speaking of the authority of the court to reverse on *certiorari*, says: "But a judgment may be given against a party without a service of a summons, and without notice of any kind, until the time of appeal is past. Certainly this is a great injury, and if there be no remedy

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but to open the judgment, it would be hard to deny that. There is a remedy, however. Such a judgment would be reversed on *certiorari*. . . . The fact that notice was not given may be proved by parol, notwithstanding some *dicta* to the contrary." See also Warren v. Wells, 3 *Luz. Leg. Reg.* 111; McMullen v. Orr, 8 Phil. 344; Donohue v. McGroarty, 9 *Luz. Leg. Reg.* 281. Many more cases might be cited, but these are enough. The uncontradicted testimony in this case taken by leave of court shows that when the summons issued and was served on the defendant, it was in debt; that the defendant had an offset to the plaintiff's claim more than enough to have covered it; that on the return day of the writ, the defendant's attorney asked for an adjournment, and, supposing that the action was debt, told the justice that his client had an offset to the plaintiff's claim; that upon the hearing, the summons was produced, and it then appeared for the first time that the word "debt" was erased, and the words "trover and conversion" interlined. The facts thus proven, and not denied, do not accord with the record. The language of the transcript is "summons in trover and conversion issued to constable—Mitchell, 1 May, 1880, &c."—when, in fact, the summons, issued, served, and returned, was in debt. It is not our purpose to comment on these proceedings, nor to suggest any inferences as to the object had in view in this surreptitious change in the form of action, for it may have been made with no wrong intent. But if so, then the record should have stated the fact truly, that the summons, issued in debt, and after service and return, was altered to a summons in trover and conversion. This is not then a true record, and by this illegal conduct, as shown by the parol testimony, the defendant was unjustly prevented from showing that which otherwise would have been a full defense. It is suggested, however, that the justice had power to amend by changing the form of action. But in the first place, it does not appear that he assumed to exercise any such power, for if so, then it should have been stated of record as we have already suggested. Second, if a justice of the peace has such power (which we do not decide), it is given by the act of May 10, 1871, P. L. 265, and can only be exercised where "it is necessary for a proper decision of the cause upon its merits," and

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the payment of costs up to the time of amendment. Neither of these facts appear of record, and therefore as anamendment, even conceding the justice to have the power to make it under the statute, the proceeding was fatally defective.

The judgment is reversed, and the whole proceedings set aside.

F. C. Mosier, Esq., for exceptions.

W. J. Philbin, Esq., J. T. Lenahan, Esq., *contra.*

Court of Common Pleas of Luzerne County.

WILLIAM H. EVERETT, *Executor, v.* PATRICK COX.

1. Where plaintiff in judgment is dead, defendant cannot be a witness in proceeding to have judgment opened, except as to transaction after the plaintiff's death with the administrator.

2. Outstanding title under which no claim has ever been made, is no ground for opening judgment for purchase money, there being no evidence of fraud or surprise. In such case, the defendant must resort to his action on the covenants in his deed.

Rule to show cause why judgment shall not be opened, &c.

The opinion of the court was delivered April 25, 1881, by

RICE, P. J.—1. It is very clear that the defendant is not a competent witness to prove declarations made by the deceased plaintiff in his life time, and therefore, so far as his equity to have this judgment opened depends on such testimony alone, it must fail.

2. But his testimony as to payments made on the judgment to the executor since the death of Peter Everett is competent under the act of April 9th, 1870, P. L. 44, P. D. 625, pl. 20, and to the extent of such alleged payments the judgment must be opened.

3. The defendant claims that there is an ontstanding title to one-sixth of the premises for the purchase money of which this note was given. He is in possession, however; there does not appear to have been any effort to evict him, and it does not appear that he did not know of the alleged defect when he took his deed, with covenant of general warranty, and gave this judgment note. Further, the evidence of an outstanding title is very

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unsatisfactory. But if there be a defect, or outstanding title, there being no assertion of it for the lapse of time appearing here, equity will not interfere where the defendant's knowledge and the state of facts continue to be the same they were at the date of the conveyance, but will leave him to his action at law upon the covenant in case the alleged outstanding title shall be asserted and an eviction follow. Wilson *v.* Cochran, 12 Wr. 107; Lighty *v.* Shorb, 3 Pa. R. 447; Krumbbaar *v.* Birch, 2 Nor. 428; Parke *v.* Bright, 1 Nor. 444; Bradford *v.* Potts, 9 Barr. 37; Peck *v.* Jones, 20 Sm. 83; Baird *v.* Stockhouse, 5 *Luz. Leg. Reg.* 69.

The rule is made absolute as to the sum of thirty-one dollars alleged to have been paid to the executor, and issue is awarded as to that sum; as to the residue of the judgment, the rule is discharged.

Q. A. Gates, Esq., for plaintiff.

J. T. Lenahan, Esq., for defendant.

Court of Common Pleas of Luzerne County.

SAMUEL BOYER *v.* SAMUEL WINTERS *et al.*

To appeal from an award of arbitration without payment of costs, the fact of poverty should be established by some evidence produced to the court.

Rule for an an appeal without payment of costs.

The opinion of the court was delivered November 26, 1883, by

WOODWARD, J.—The act of 16th June, 1836 (Pur. p. 86, pl. 57), permits an appeal in certain cases without payment of costs. To establish the fact of poverty, some evidence should be produced to the court. How else is the judge to be "satisfied of the truth" of the statements made in the petition?

The rule in this case must be discharged, unless the plaintiff, within twenty days, submits to us satisfactory proof of the allegations contained in his petition. If this is done, the rule will then be made absolute.

G. L. Halsey, for plaintiff.

W. S. McLean, for defendants.

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COMMON PLEAS TRIAL LIST—MARCH TERM, 1884.

FIRST WEEK—MARCH 3, 1884.

NO.	PL'FFS' ATT'YS.	PLAINTIFFS.	DEFENDANTS.	DEF'TS' ATT'YS.	NO.	TERM.	YR.	ACTION.	PLEA.
1	Harding, McG	Ellen M. Mylotte et al.	John Quinn et al.	McL. & J., B & N.	6	May	1881	Interpleader	Usual plea.
2	Harding, McG	Emilia Matulwicz	D. L. O'Neill	O'Neill	35	Feb	1883	Interpleader	Usual plea.
3	O., W., Harding	Arnold Bertels et al	Franklin Coal Co.	Palmer	276	Feb	1873	Ejectment	Not guilty.
4	Pike	O. P. Hart et al.	Hugh Connor et al.	Shonk, Opp	1318	May	1877	Ejectment	Not guilty.
5	E. A. L., J. T. L.	John Gallagher	R. Davis	H. & B	380	Sept	1879	Case	Not guilty.
6	Hahn	W. E. Gregory, Ad., et al	A. B. Dreisbach, dec'd	H. & B., T. F. W.	158	Jan.	1880	Appeal	Non assumpsit, pay't with leave, &c.
7	Darlings, B. & W	Use of W. J. Romig	Dryf. Grier & Youngman	D. & A	268	Jan.	1880	Debt	Nil debit, payment with leave.
8	McLean	City of Wilkes-Barre	Patrick McGrath	E. A. L	12	April	1881	Sci. fa. sur mort	Payment with leave.
9	Hahn	Frederika Zollman	City of Wilkes-Barre	McLean	15	May	1881	Case	Not guilty.
10	Jenkins	Evan J. Thomas et al	Lawrence Crogan et al.	Darte	97	June	1881	Ejectment	Not guilty.
11	Darlings	F. R. Stark, Ex'x, et al.	D. G. Dreisbach	McClintock	186	June	1881	Sci. fa. sur mort	Payment with leave, &c.
12	Darlings	F. R. Stark, Ex'x, et al.	D. G. Dreisbach	McClintock	187	June	1881	Debt	Nil debit, payment, &c.
13	O'Neill, Opp	William Warne et ux	Borough of Nanticoke	Shonk, Hines	504	Sept	1881	Case	Not guilty.
14	Harding, McG	James S. Slocum	Pa., N.Y., C. & R. R. Co.	Darlings, Palmer	17	Nov	1881	Issue	Not guilty.
15	Hakes	Francis Searfoss	Asa Gregory et al	C.	358	Jan.	1882	Appeal	Non assumpsit, pay't with leave, &c.
16	Hines	Samuel Crow, dec'd	Hanover Township	Harding, McG	9	Mar	1882	Case	Non cul.
17	Darte	R. H. Atkinson	P. J. Kinney	J. L., Pike	578	May	1882	Case	Not guilty.
18	Gates	Enoch Jones	Lehigh & W. B. Coal Co.	P., D. & F	178	June	1882	Assumpsit	Non ass., pay't w. leave, setoff, &c.
19	McLean	B. P. Boyle	Mackin & Boyle	J. L., J. L. L.	290	Oct.	1882	Case	Non assumpsit, pay't with leave, &c.
20	Mosier, Gates	A. B. Rommel	Xavier Wernet	Harding	357	Oct.	1882	Appeal	Non assumpsit.
21	J. T. L.	George D. Silvius	John Kossek	Ryman	245	Nov	1882	Assumpsit	Non ass., pay't w. leave, &c., tender.
22	Hakes	Christopher Eyper	Francis Hoover		200	Jan.	1883	Ejectment	Not guilty.
23	McLean, G	Humphrey Bros. & Tracy	J. S. Frauenthal et al		362	Jan.	1883	Appeal	Nil debit.
24	Brundage, B.	John Evans	S. A. Jones	McAlarney	124	Feb	1883	Tresp. vi et armis	Not guilty.
25	Brundage, B.	Use of Mary Ann Evans	S. A. Jones et ux	McAlarney	126	Feb	1883	Tresp. vi et armis	Not guilty.
26	Coughlin	Joseph F. Welter	J. W. Edwards	Foster	190	Oct.	1883	D. S. B	Payment.
27	E. A. L.	C. E. Llewellin	R. S. Poole et al.	McLean	184	Nov	1883	Case	Not guilty
28	Lenahans	James Kane et al	Henry Reed	Harding, McG	351	Nov	1883	Ejectment	Not guilty.

SECOND WEEK—MARCH 10, 1884.

1	Osborne	W. F. Peck et ux	Josiah Ruggles et al.	Harding, Hahn	112	Jan.	1869	Ejectment	Not guilty.
2		James Cobb, dec'd	Philo Lee	C. E. L.	241	Oct.	1875	D. S. B	Nil debit, payment with leave, &c.
3	Ricketts	Samuel Heller	D. J. Waller et al.	Payne	373	April	1879	Tr. qua. cla. freg	Not guilty, accord and satisfac., w. l.
4	Rhone	C. W. Hollenback	George H. Voorhis et al.	Darlings	222	Nov	1879	Ejectment	Not guilty.
5	Ricketts, T	Samuel Frauenthal	Thompson Derr & Bro.	Harding, Derr, P	239	Jan.	1880	Case	Not guilty.
6	Butler, R. D	T. P. Macfarlane	Leander J. Smith	Osborne	513	Sept	1880	Assumpsit	Non ass., pay't w. leave, &c., setoff.
7	Bedford, L	E. T. Long	John M. Caffrey	J. T. L. Hard. McG	65	April	1881	Debt	Nil debit, payment with leave, &c.
8		James McHale	P. J. Daly, Ad.	Brundage	241	May	1881	Appeal	Special plea.
9	Harding, McG	E. L. Underwood	George W. Leuder	McLean	129	June	1881	Trover and conv	Not guilty.
10	Hahn	Josiah Stookey	Julia Westover, Ad., et al.	J. L.	82	Sept	1881	Sci. fa. sur judgt	Payment with leave, &c.
11	Ricketts	Michael M. Reading	Patrick McGraw	E. A. L	158	Oct.	1881	Assumpsit	Non ass., pay't w. leave, &c., setoff.
12	McL. & J	Dorothea Kauffman	B. Burgunder	Harding, McG	169	Jan.	1882	Case	Not guilty.

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NO.	PL'FFS' ATT'YS.	PLAINTIFFS.	DEFENDANTS.	DEF'TS' ATT'YS.	NO.	TERM.	YR.	ACTION.	PLEA.
13	D. & A.	John Elliott	Central Poor District	O'Neill	82	Feb	1882	Appeal	Non assumpsit.
14	Hahn	J. S. Sickler	Patrick Cannon	J. L. L.	396	May	1882	D. S. B.	Nil debit, payment with leave, &c.
15	J. L. L.	Thos. Conyngham et ux	E. V. Rutter	Payne	596	May	1882	Appeal	Not guilty.
16	Payne	W. B. Poust	Lehigh-Luzerne Coal Co.	Darlings	104	Oct.	1882	Ejectment	Not guilty.
17	McLean	B. P. Boyle	Kate Boyle et al.	J. L., J. L. L.	291	Oct.	1882	Case	Non assumpsit, pay't with leave, &c.
18	Ryman	A. M. Herrod & Co.	Frauenthal Bros.	T.	748	Oct.	1882	Debt	Nil debit.
19	Darte	E. C. Starbird	William Case	Hines	324	Nov	1882	Appeal	Non assumpsit, payment, setoff.
20	Farnham, Gates	Wm. Gethings, dec'd	C. S. Stark, dec'd	Darlings	283	Jan.	1883	Case	Not guilty, &c.
21	J. T. L.	Patrick Gibbons et ux	Township Kingston et al	Gates, Shonk	55	Feb	1883	Case	Not guilty.
22	Brundage, B.	John Evans et ux	S. A. Jones	McAlarney	125	Feb	1883	Tresp. vi et armis	Not guilty.
23	Payne, D.	Use Chas. Corwin & Bro.	School Dist. Denison Tp.	Halsey	192	Feb	1883	Assumpsit	Non assumpsit, pay't with leave, &c.
24	Halsey	George S. Maurer	A. Donop, dec'd	Payne	65	Nov	1883	Assumpsit	Non as., pay't w. l., &c., setoff, &c.
25	J. L. L.	Annie Clarke et al.	Martin Clarke	J. T. L.	326	Nov	1883	Ejectment	Not guilty.

CHAS. D. FOSTER,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

WILLIAM S. McLEAN,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

W. S. PARSONS,
ALDERMAN,
WILKES-BARRE, PA.

SHERIFF'S SALES.

Abstract of property to be sold by J. S. Oberrender, Sheriff of Luzerne county, on Saturday, February 16th, A. D. 1884, at 10 o'clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are numbered, to wit:

1

Suit of Samuel Line, Administrator of the estate of Martha Fairchild, deceased, v. Charles Garringer.

373 January term, 1884. Debt, real, $2,987.50. Fi. fa. 85 January term, 1884.

Bennett & Nichols, Att'ys.

All those two lots of land in the borough of Nanticoke, 1, beginning at a corner on the east side of the township road leading to Lines station on the L. & S. road, thence along the line of said township road 72 feet to a corner, thence about 144 feet to an alley, thence along line of same 72 feet to a corner, thence 143 feet 7½ inches to the place of beginning; containing about 10,368 square feet of land; improved, and having erected thereon one two-story frame dwelling, with fruit trees; excepting and reserving the coal and other minerals.

2. Beginning at a corner on the east side of said township road, thence along line of same 119 feet 7 inches to a corner, thence 147 feet 4½ inches to an alley, thence 121 feet 1 inch to a corner, thence about 144 feet to the place of beginning; containing about 17,616 square feet of land; improved, and having erected thereon one two-story frame dwelling, one frame barn, with fruit trees; excepting and reserving coal and other minerals.

NOTE.—The land first above described is lot 49 and part of lot 50, and that second above described is lots 51, 52, and part of lot 50 on plot laid out by the Susquehanna Coal Company, and the whole of the land above described is the same as that embraced in a mortgage of Charles Garringer to Martha Fairchild.

2

Suit of Thomas Ford v. Isabel M. Geddis and Hattie D. Geddis.

135 November term, 1880. Debt, $736.61. Fi. fa. 89 January term, 1884.

Ferris, Att'y.

1. All the surface of that lot of land in the borough of West Pittston, beginning at a corner in line of Boston avenue, thence along lot of H. E. and I. M. Geddis 200 feet to a corner, thence along an alley 50 feet to a corner, thence 200 feet to said Boston avenue, and thence along the same 50 feet to the place of beginning; containing 10,000 square feet of surface of the same more or less.

2. All that lot of land in the borough of West Pittston, beginning at a corner in line of Boston avenue 300 feet, and 14 feet in the direction of south, 33 degrees east from the Tunkhannock road, thence 200 feet to a 25 feet alley, thence along said alley 100 feet to a corner, thence 100 feet to said Boston avenue, and thence along the same 100 feet to the place of beginning; containing 20,000 square feet of land more or less; being lots Nos. 54 and 56 on Boston avenue; reserving all coal and other minerals; all improved, and having erected thereon a two-story frame dwelling house, back kitchen attached, and other outbuildings.

3

Suit of Charles Smith v. Charles W Lathrop.

859 April term, 1879. Debt, $48. Fi. fa. 93 January term, 1884.

Foster, Att'y.

All the following one-half interest of the lot of land, being two acres of land, in Lehman township, beginning at a stake on the main road leading from Huntsville to Harvey's Lake on the line of land owned by Wesley Lameraux, thence along the line of said Lameraux's land in a southwesterly direction 32 rods to a corner, thence in a northeasterly direction 10 rods to a corner, thence in a northwesterly direction 32 rods to a corner on said main road, thence in a southwesterly direction along said line 10 rods to the place of beginning.

4

Suit of A. F. Peters & Son, assigned to C. W. Kline, Attorney for Watsontown Planing Mill Company, v. Ernest Shadel.

140 May term, 1882. Debt, $159. Al. fi. fa. 5 February term, 1884.

Kline, Att'y.

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All that lot of land in the township of Foster, near Freeland, beginning at a corner on the east side of Birkbeck street and about 331½ feet south of land now owned by Thomas Birkbeck, thence on Birkbeck street 92 feet to a corner, thence by lands of Joseph Birkbeck's east 127¼ feet to a corner of land belonging to High land Coal Company, thence by same 92 feet to a corner, thence by lands of Joseph Birkbeck's estate 129⅓ feet to the place of beginning; containing 11,831 square feet of land more or less; all improved, and having erected thereon one two-story frame dwelling house, privy, stable, outbuildings, and fruit trees.

5

Suit of L. D. Shoemaker v. William Patten and Mary Josephine Patten and Jenny Walker Patten, by their guardian, William Patten, and Frederick Miller, James Courtright and Samuel Barton.

Palmer, Att'y.

All that piece of land, in the township of Kingston, beginning at a stone corner on line of lot No. 30, second division, about 144 rods from the main road and at a point for a corner of land sold to Frank Helm, thence 20 3-10 rods to a corner in line of lot No. 28, thence along line of lot No. 28 162 rods to the Susquehanna river, thence down the same 20 7-10 rods to the corner of lot No. 30, thence 167 rods to the beginning; containing 20 acres more or less, and being part of lot No. 7, second division of lots in said township.

6

Suit of Jacob Crause v. E. K. Shellhammer and Augustus Crause, Administrators of Samuel Shellhammer, deceased.

25 October term, 1883. Debt, $465.55. Al. fi. fa. 3 January term, 1884. Payne, Att'y.

1. All that tract of land in Black Creek township, beginning at a pitch pine, thence by land of Peter Swayer 207 perches to a stone corner on line of Wm. Shellhammer, thence by land of Wm. Shellhammer and Peter Roberts 62 5-10 perches to a stone corner on land of David Shellhammer, thence by said David Shellhammer's land 88 5-10 perches to a corner, thence 12 perches to corner in line of John Hart, thence by land of said Hart 82 perches to stones, thence 45 3-10 perches to corner, thence 14 8-10 perches to stones corner, thence by land of E. K. Shellhammer 52 4-10 perches to stones on land of Abram Smith, thence by said Smith's land 100 perches to place of beginning; containing 106 acres and 35 perches; about 65 acres improved, with two two-storied wood dwelling houses, a wood barn, one saw mill, wagon shed and corn crib, and other outbuildings; two apple orchards; occupied by Samuel Shellhammer when he died.

2. All that tract of land in Black Creek township, beginning at a pitch pine corner on land of David Shellhammer, running thence by David Shellhammer's land 101 perches to a pitch pine corner, thence 41 perches to a maple corner, thence by land of William Keegan 118 perches to stones, thence 15 perches to corner on lands of Samuel Shellhammer, thence by Wm. Shellhammer's land 52 4-10 perches to stones corner thence 14 8-10 perches to stones, thence 18 6-10 perches to a hemlock, thence 10 perches to stones, thence 11 9-10 perches to a corner common to lands of John Hart and Samuel Shellhammer, thence by land of John Hart 49 perches to a walnut, thence 18 3-10 perches to a stones, thence 62 perches to land of Perry Boone, thence by said Boone's land 69 perches to place of beginning; containing 87 acres and 130 perches; about 25 acres improved, with two two-storied wood dwelling houses, one wood barn, one wagon shed, one wood stable, one bone mill, one apple orchard.

7

Suit of Isaac Tripp, now assigned to Sarah E. Atherton v. E. A. Coray.

21 October term, 1881. Debt, $6105 64. Vend. ex. 3 February term, 1884. Payne, Att'y.

All the following described piece of land in Exeter township, bounded easterly by the Susquehanna river, westerly by lands of William Heisler and George Hill, northerly by lands of George Miller, William Hepler and E. A. Coray, and southerly by lands of Casper Overdorfer; containing 115 acres of land more or less; about one-half improved with one wood dwelling house, one wood barn, and one old wood barn thereon 4-6

ORPHAN'S COURT SALE.

Estate of Mary Culver, deceased. By virtue of an order of the Orphan's Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Friday, the 15th day of February, 1884, at 10 o'clock A. M., the following piece of land in the township of Ross, bounded on the north by lands of Jacob Ely and Jeremiah Sickler estate, on the east by lands of Henry Long and Hillman Moss, on the south by lands of Nathan Culver and Warren Hoffman; all improved, except about 15 acres in woodland; containing about 44 acres, together with the appurtenances, a 1½-story frame house, and a small orchard.

TERMS OF SALE.—One-half the purchase money down at the time of sale, balance on confirmation of sale and delivery of deed.

ELISHA CULVER,
Administrator.

DORRANCE & PRICE,
Attorneys. 4-6

ORPHANS' COURT SALE.

In Re Estate of John Fritz, deceased. By virtue of an order of the Orphan's Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, at Wilkes-Barre, on Wednesday, the 20th day of February, A. D. 1884, at two o'clock P. M., the following real estate, namely: All the coal underlying two pieces of land, bounded and described as follows: the first one situated in Wilkes-Barre township and Hanover township, county of Luzerne, and state of Pennsylvania, beginning at a corner of the main road leading from Wilkes-Barre to Hanover, adjoining lands of Sarah Bennett and J. W. Horton; thence along the said road, south 58 degrees 30 minutes west, 36 8-10 perches to the center of Solomon's creek; thence down the same in the center thereof, north 12 degrees 30 minutes west, 13 perches north, 47 degrees 15 minutes east, 2 perches; thence north 63 degrees east, 12 perches north, 70 degrees east, 6-10 perches to a corner in line of Sarah Bennett and J. W. Horton; thence south 48 degrees 30 minutes east, 12 4-10 perches to the said Hanover road, the place of beginning; containing 2 acres and 103 8-10 of a perch more or less. The second.—All the coal underlying another piece of land, beginning at a corner at the road leading from the Hanover road to the River road; thence along land of Milan Barney and George Shannon, north 58 degrees 36 minutes east, 17 6-10 perches; thence south 48½ degrees east, 6 perches; thence south 58 degrees 30 minutes west, 17 6-10 perches to the place of beginning; containing 101 7-10 perches of land. Together with the right to mine and remove the said coal, without, however, doing any injury to the surface.

TERMS OF SALE.—$200 cash down, and the balance, with interest thereon, on the day of confirmation of the sale.

ANTHONY VOGT,
Administrator.

GUSTAV HAHN,
Attorney. 5-7

ORPHANS' COURT SALE.

In Re Estate of Barney Hunsinger, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, on Wednesday, the 20th day of February, A. D. 1884, at one o'clock P. M., a certain piece of land situated in the township of Black Creek, county of Luzerne, and state of Pennsylvania, bounded and described as follows: beginning at a stone corner in the public road leading from Seybertsville to Nescopeck Gap in the line of lands of Amos McNeal; thence along said public road and lands of Thomas Saeger, south 89 degrees west, 71 8-10 perches; thence by the same lands and along the same road, north 73 degrees west, 18 7-10 perches to a stone in the cross roads; thence by lands of Jacob Wright on another public road, south 19 degrees west, 15 8-10 perches to a stone in said road; thence by lands of the estate of Philip Hess, deceased, south 57½ degrees east, 36 perches to a pitch pine; thence by the same, south 2 degrees east, 60 perches to a post; thence by lands of the same, south 82½ degrees east, 33 4-10 perches to a stone in Nesco-

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peck creek; thence by lands of the same and up said creek the two following courses and distances, south 93 degrees east, 28 perches, and south 78 degrees east, 13 perches on the creek; thence by lands of the said Amos McNeal, north 7½ degrees west, 115 perches to the place of beginning; containing 46 acres and 150 perches of land more or less; with a 1½-story log house and barn and stable and other outbuildings thereon. The land is nearly all clear, with a 1½-story frame house and outbuildings thereon. There is also a young orchard of apple trees and other fruit.

TERMS OF SALE.—Ten per cent. of one-third of the purchase money to be paid on the day of the sale; the remainder of the one-third, after deducting the said ten per cent., to be paid on confirmation of the sale; another one-third in one year from the day of the sale; and the remaining one-third or so much thereof as may amount to the dower of the widow, payable upon the death of the widow. Deferred payments to be secured by bond and mortgage. Interest to be paid on all unpaid purchase money from the date of the sale.

SAMUEL BROWN,
Administrator.

GUSTAV HAHN,
Attorney. 5-7

ESTATE OF PETER HEBEL, LATE OF THE borough of Hazleton, deceased.

By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the law office of C. W. Kline, in the borough of Hazleton, Pa., on Saturday, the 9th day of February, A. D. 1884, at 2 o'clock P. M., the following pieces of land:

No. 1.—All that lot of ground, in the borough of Hazleton, being lot No. 6 in square No. 13 in the general plan of said borough, commencing at a distance of 166 feet 8 inches westward from the northwest corner of Broad and Cedar streets, containing, in front or breadth on said Broad street, 33 feet 4 inches, and extending of that breadth in length or depth northwardly 150 feet to Spruce alley; bounded north by Spruce alley, east by lot No 5, south by Broad street, and west by lot No. 7. Improved by a two-story frame dwelling, used as saloon and dwelling, and necessary outhouses.

No. 2.—Is directly in rear of lot above described, being all that lot of ground, in the borough of Hazleton aforesaid, being lot No. 6 in square No. 4 in the plan of said borough, commencing at the distance of 200 feet eastward from the east side of Pine street, containing in front or breadth on Spruce alley 33 feet 4 inches, and extending of that breadth in length or depth northwardly 150 feet to Green street. No buildings.

TERMS OF SALE.—50 per cent. of purchase money down on day of sale, balance on confirmation of sale and delivery of deed.

CATHARINE M. HEBEL,
Administratrix.

C. W. KLINE,
Attorney. 3-5

ESTATE OF DAVID SHELLHAMMER, LATE of the township of Black Creek, deceased.

By virtue of an order of the Orphan's Court of Luzerne county, the undersigned will expose to public sale, on the premises, on Thursday, the 7th day of February, A. D. 1884, at 10 o'clock A. M., all that piece of land, in the township of Black Creek, beginning at a white oak tree, a corner of land of Perry Boone, standing north of a public road; thence by lands of said Perry Boone, 28 perches to a white pine tree; thence by lands of the same, 9 3-10 perches to a white pine tree; thence by same, 29 8-10 perches to a rock oak corner tree; thence by same, 28 1-10 perches, crossing a public road and Nescopeck creek, to a hemlock corner tree on the westerly bank of said creek; thence by land of John Hart, 23 perches up said creek to a stone in said creek; thence by the same, 14 perches to a stone corner; thence by land of the estate of Samuel Shellhammer, deceased, 82 perches, crossing a public road and also Mahonoy state road, to a stone corner; thence by lands of Peter Roberts, 76 perches to a stone corner; thence by land of William Forsythe, 29 5-10 perches, crossing Nescopeck creek, to a stone corner on the north bank of Nescopeck creek; thence by the lands of the said Perry Boone, 67 perches to a stone corner on top of bank of old mill race; thence by same lands, 5 2-10 perches, crossing said race and a public road, to the place of beginning; containing 31 acres and 100 perches strict measure, having erected thereon a large frame building, used as a mill; a frame dwelling house, barn and outhouses.

TERMS OF SALE.—10 per cent. of the whole purchase money down at time of sale; 30 per cent. on confirmation of sale and delivery of deed; 30 per cent. in one year, and 30 per cent. in two years from confirmation of sale, with interest from day of confirmation of sale; deferred payments to be secured by bond and mortgage on the premises.

STEPHEN TURNBACH,
PERRY BONE,
Executors of the Estate of David Shellhammer, dec'd.

ELLIOTT P. KISNER,
Attorney. 3-5

ESTATES TO BE AUDITED BY THE Orphans' Court of Luzerne county. Notice is hereby given that accounts have been filed and confirmed absolutely by the court in the following estates:

1. William R. Covell; Chas. A. Miner, Administrator; 5th February, 1884.
2. Sarah Diehl; William Diehl, Administrator; 5th February, 1884.
3. John S. Jenkins; Hannah L. Jenkins, Administratrix; 6th February, 1884.
4. Ferdinand Brune; Sarah D. Brune, Executrix; Kenard J. Ross and Geo. S. Ferris, Executors; 6th February, 1884.
5. Elizabeth Thomas; Reuben Thomas, Administrator; 7th February, 1884.
6. Abram Goodwin; Abram Goodwin, jun., Administrator; 7th February, 1884.
7. R. C. Sutliff; A. R. Pennington, Administrator, 8th February, 1884.
8. Margaret Brown; James Black and John M. Brown, Executors; 8th February, 1884.
9. John Louder; B. F. Louder, Trustee in partition, 11th February, 1884.
10. Elisha Atherton; E. A. Atherton and F. B. Dills, Executors; 11th February, 1884.
11. Olmstead Dickinson; C. B. Dickinson, Administrator; 12th February, 1884.
12. Peter Rockell; Wm O'Malley, Trustee in partition; 12th February, 1884.

The accounts enumerated and designated in the above list will be audited by the court, in the Court House, in the Orphans' Court room, during the session of court on the days set forth opposite the name of each estate, at which time all persons interested shall attend, if they see fit, and present their claims against said estate, or forever thereafter be debarred from coming in upon said fund.

JOSEPH HENDLER,
Clerk O. C.
3-5

ESTATE OF FREDERICK BACH, DEC'D To Frederick Bach, Jr. You are hereby notified that the Orphan's Court of Luzerne County, Pa., upon the petition of C. F. Teufel, a creditor of the Estate of Frederick Bach, deceased, has awarded an alias citation to you to be and appear before the said Court, at Wilkes-Barre, in said county, on the last Saturday of February, 1884, at 10 o'clock A. M., to show cause why you should not be removed as executor of the estate of said deceased, and why letters testamentary granted to you in said estate should not be revoked, on the ground of your having removed from this commonwealth, and have had no known place of residence therein for more than one year.

S. M. RHONE,
Attorney for C. F. Teufel.
5-7

ESTATE OF HANNAH MEEKER, LATE OF Fairmount township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES MEEKER,
Lehman, Pa.
1-6

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ESTATE OF FRANCIS R. S. WINTERS, LATE of Franklin township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WM. H. BODLE,
Orange, Pa.

2-7

ESTATE OF CATHARINE WILLIAMS, LATE of Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN J. POWELL,
Pittston, Pa.

GEO. S. FERRIS,
Attorney.

52-5

ESTATE OF JAMES BOYD, JR., LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. G. WEAVER,
JAMES BOYD, SR.,
Wilkes-Barre, Pa.

J. L. LENAHAN,
Attorney.

5-10

ESTATE OF DELPHINE E. VER PLANK, late of West Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SAMUEL P. FENN,
Pittston, Pa.

G. S. FERRIS,
Attorney.

5-10

NOTICE IS HEREBY GIVEN, THAT THE Account of Herz Lowenstein, Assignee of S. Lowenstein, for the benefit of Creditors, was filed 28th January, 1884, and that the same will be confirmed on Monday, February 18th, 1884, at 10 o'clock A. M., unless cause be shown why it should not be allowed.

JAMES M. NORRIS,
Prothonotary.

AUDITOR'S NOTICE.

The undersigned, an auditor, appointed by the Court of Common Pleas of Luzerne county to distribute the fund arising from the Sheriff's sale of the personal property and real estate of James Garrahan and Thos. Garrahan, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, in Wilkes-Barre, Pa., on Monday, February 25th, 1884, at 10 o'clock A. M., at which time and place all parties interested are required to appear and present their claims, or else be debarred from coming in on said fund.

JOHN S. HARDING,
Auditor.

AUDITOR'S NOTICE.

The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county to pass upon the exceptions to the account of Andrew Bryden, Trustee of The Pittston Knitting Company, Limited, and make distribution of the fund in the hands of the Trustee, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, in Wilkes-Barre, Pa., on Thursday, the 28th day of February, 1884, at 10 o'clock A. M., at which time and place all parties interested are required to appear and present their objections and claims, or be debarred from coming in on said fund.

WILLIAM S. McLEAN,
Auditor.

AUDITOR'S NOTICE.

The undersigned, an auditor appointed by the Court of Common Pleas of Luzerne County to distribute the fund arising from the Sheriff's sale of the personal property of George S. Burgan, hereby gives notice that he will attend to the duties of his appointment, at his office on Franklin street, in Wilkes-Barre, Pa., on Tuesday, February 12th, 1884, at 10 o'clock A. M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

JOS. D. COONS,
Auditor.

3-6

WIDOWS' APPRAISEMENTS.

Notice is hereby given to all persons concerned, that widows' appraisements in the following estates have been approved nisi by the Orphans' Court of Luzerne county, and, unless exceptions are filed, will be presented for final approval on Monday, the 4th day of February, 1884:

Lewis R. Lewis, Morgan L. Reese, Henry Smith, and Joseph Hawk, deceased.

JOSEPH HENDLER,
Clerk O. C.

3-5

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 776, October term, 1883. Libel in divorce a vinculo matrimonii. Hannah Tiffany, by her next friend, John Moore, *v.* Perry Tiffany. The alias subpoena in the above case having been returned, "That the said Perry Tiffany cannot be found in Luzerne county." You, the said Perry Tiffany, respondent, are required to appear on Monday, February 11, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.

E. D. NICHOLS,
Attorney.

3-6

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 700, October term, 1883. Libel in divorce a vinculo matrimonii. Sarah J. McFarlane, by her next friend, George L. Philips, *v.* John McFarlane. The alias subpoena in the above case having been returned, "That the said John McFarlane cannot be found in Luzerne county." You, the said John McFarlane, respondent, are required to appear on Monday, February 11, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.

GEO. K. POWELL,
Attorney.

3-6

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county, No. 113, May term, 1883. Libel in divorce a vinculo matrimonii. Mary Jane Skipper, by her next friend, Mary Moharter, *v.* Elijah Skipper. The alias subpoena in the above case having been returned, "That the said Elijah Skipper cannot be found in Luzerne county." You, the said Elijah Skipper, respondent, are required to appear on Monday, March 3, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.

G. H. R. PLUMB,
Attorney.

5-8

LUZERNE COUNTY, ss;,

In the Court of Common Pleas of said county. No. 630, October term, 1883. Libel in divorce a vinculo matrimonii. Catharine Jones, by her next friend, John Gaynor, *v.* John F. Jones. The alias subpoena in the above case having been returned, "That the said John F. Jones cannot be found in Luzerne county." You, the said John F. Jones, respondent, are required to appear on Monday, March 3, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.

J. T. LENAHAN,
Attorney.

5-8

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ESTATE OF BILLY HARRISON, LATE OF Huntington township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. J. WILKINSON,
1-6 Bloomingdale, Pa.

ESTATE OF CLARA ROOD, FORMERLY Wiant, late of Fairmount township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

DENNIS WIANT,
1-6 Harveyville, Pa.

ESTATE OF HENRY KROPP, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH KROPP,
L. D. SHOEMAKER, Wilkes-Barre, Pa.
Attorney. 5-10

ESTATE OF JAMES MOYER, LATE OF Hollenback township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ABRAHAM MOYER,
AARON MOYER,
A. R. BRUNDAGE, Hobbie, Pa.
Attorney. 4-9

ESTATE OF MARY ANN DAVIS, LATE OF Wilkes-Barre, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ABRAM NESBIT,
GEORGE K. POWELL, Kingston, Pa.
Attorney. 3-8

ESTATE OF JANE PRICE, LATE OF THE borough of Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHAS. H. FOSTER,
E. P. & J. V. DARLING, Pittston, Pa.
Attorneys. 52-5

ESTATE OF WM. B. HARROWER, LATE OF Ashley, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ALICE T. HARROWER
ANDREW HUNLOCK, Ashley, Pa.
Attorney. 52-5

ESTATE OF AMY WILKINSON, LATE OF Ross township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. J. WILKINSON,
1-6 Bloomingdale, Pa.

ESTATE OF MARGARETTA RITTERSBACHER, late of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

FREDERICK G. SMITH,
3-8 Wilkes-Barre, Pa.

ESTATE OF JAMES GIVENS, LATE OF Hazleton, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BRIDGET GIVENS,
4-9 Hazleton, Pa.

ESTATE OF ABIAH SUTLIFF, LATE OF Ross township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. J. WILKINSON,
1-6 Bloomingdale, Pa.

ESTATE OF WILLIAM STONE, LATE OF Hazle township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES STONE,
4-9 Stockton, Pa.

ESTATE OF JOHN L. JONES, LATE OF Freeland, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WILLIAM L. JONES,
JOHN D. HAYES, Freeland, Pa.
Attorney. 3-8

ESTATE OF ISAAC KREIDLER, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE KREIDLER,
4-9 Wilkes-Barre, Pa.

ESTATE OF GEORGE COREY, LATE OF West Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

E. A. CORAY,
W. H. CORAY,
E. S. OSBORNE,
Attorney. 2-7

ESTATE OF R. J. WISNER, LATE OF WEST Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

THEODORE STRONG,
CHARLES H. FOSTER,
J. A. WISNER,
G. S. FERRIS, Pittston, Pa.
Attorney. 5-10

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THE LUZERNE LEGAL REGISTER.

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Court of Common Pleas of Schuylkill County.

IN RE ANTHRACITE BASE BALL ASSOCIATION.

The salary of a base ball player is not a preferred claim under the wages act of June 15, 1883.

Case stated.

The opinion of the court was delivered January 14, 1884, by

PERSHING, P. J.—To avoid the expense of an audit, the question involved in the distribution of the small fund realized from the Sheriff's sale on the above stated *fi. fa.* has been amicably submitted to the decision of the court. To quote from the case stated: "The question being for the court to decide is, whether the claim of those who earned their money in the employ of Mr. Sullivan as base ball players are entitled, as wage claimants, to priority on the fund, either under the act of 1862 (P. L. 479) or under the act of 1883 (P. L. 116). It is further agreed that the claimants played base ball under contracts made prior to the act of June 15th, 1883." The counsel for the claimants conceded that the act of 1862, which is local to Schuylkill county, gives them no support, and rested his case on the later act of 1883. This act amended the first section of the act of April 9th, 1872, "for the better protection of the wages of mechanics, miners, laborers, and others," so as to make it include servant girls, or other servants or helpers in hotels, restaurants, boarding houses, or private families, porters, hostlers, laundrymen and washerwomen, seamsters and seamstresses employed by merchant tailors, milliners, dressmakers, clothiers, shirt manufacturers, and clerks employed in stores, hands, laborers, mechanics, printers,

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apprentices hired for wages or salary, giving to these a preference for wages earned for any period not exceeding six months, and to an amount not exceeding two hundred dollars, immediately preceding the sale of the works, mines, manufactories, or business, or property connected with the carrying on of the business, in or by which the wages were earned. In Sullivan's appeal, 27 Sm. 107, it was decided that, under the act of 1872, a servant girl, cook at a hotel, was not entitled to the preference for wages due, given by that act. It was, doubtless, to remedy this, and like cases decided under that statute, that the amended act of 1883 was passed. Much as it has extended the scope of the act of 1872, we think it overlooks base ball playing as an employment entitled to special legislative protection.

Without giving extended reasons for our conclusion, or further referring to the language of the act of 1883, we think, and so decide, that the word "business" does not refer to nor include the carrying on or management of a base ball club, nor the word "laborer" apply to the players of base ball, in the sense in which these words are to be interpreted as employed in the act of 1883. The persons therefore named in the case stated are not entitled to priority on the fund for distribution. Besides this, the notice of claim served on the Sheriff in this case comes far short of the requirements of the statute. Upon this point, as well as the other question before us, we refer to Millen *v.* Bank of Corry, 1 W. N. C. 55; Allison *v.* Johnson, 11 Nor. 314; Pardee's Ap., 4 Out. 408; Llewellyn et al. Ap., 16 W. N. C. 69.

[Abridged by Rev. HORACE EDWIN HAYDEN, from his forthcoming work entitled "Reminiscences of David Hayfield Conyngham, of the Revolutionary house of J. N. Nesbitt & Co., Philadelphia, 1750-1832."]

[David Hayfield Conyngham descended from William Conyngham, Bishop of Argyll, Scotland, 1539, of the house of Glencairn. The family owes its rise to the act of one Malcolm, son of Freskin, who saved the life of Malcolm, Prince of Scotland, from the wrath of Macbeth by hiding him in a barn, when hotly pursued, and covering him with straw by means of a shake fork. When Malcolm became king, he rewarded his presence by the thanedom of

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Cunynghame, from which the posterity of this faithful adherent assumed their surname, and took a "*shake fork*" for their arms, and "*over fork over*" for their motto. From this Malcolm of Cunynghame descended all the families of the name in Great Britain. The houses of Lord *Cuninghame*, of Ayr (the Earl of Glencairn's line); *Lord Cuningham* Fairlie, of Fairlie; Lord Dick *Cunyngham*, of Edinburgh; Lord *Cunynghame*, of Milncraig; the Marquess *Conyngham*, of Mount Charles, Ireland; with the several lines among the landed gentry—Cuningham & Cuninghame of Lainshaw, of Hensol; of Cadel & Thorntoun, of Caprington and of Balgownie House—all preserve the original arms, "*Arg. a shake fork, sa,*" and in most cases the original motto, "*over fork over.*"

William Conyngham, Bishop of Argyll, 1539, had two sons: *William*, who succeeded at Conyngham-head, Scotland, and was made a *Baronet of Nova Scotia;* and *Rev. Alexander*, who took orders, and about 1610 removed to Donegal county, Ireland. In May, 1630, he was made Dean of Raphoe, and died September 3, 1660, and was buried at Raphoe. He married Catherine, daughter of John Murray, of Broughton, who owned all Boylagh and Banagh. He had, according to Burke, twenty-seven children, of whom four sons and five daughters survived infancy. The sons were: George Conyngham, Esq.; Sir Albert Conyngham, from whom descend the Earl of Conyngham and of Mount Charles (see Burke's Peerage); William Conyngham, Esq., who died unmarried, and whose property, by will, descended to David Hayfield Conyngham, through Alexander, of Eighan; Alexander Conyngham of Letterkeny, Esq., the immediate ancestor of David Hayfield Conyngham. Alexander Conyngham of Letterkeny, Esq., married Mary Montgomery, and had Alexander of Eighan, will dated December 27, 1701; and Andrew, the supposed one through whom the Wilkes-Barre family descend, for this reason. Alexander of Eighan married Helen, and had Richard of Dublin, merchant, who married, as per marriage contract, May 8, 1706, Mary Moore, daughter of Brabazan Moore, of county Louth. His father, by will, entails upon him and his heirs forever the lands of Ballyboe, said "lands of Ballyboe limited to said Richard Conyngham for life, remainder to the

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heirs male of his body." These lands came by deed from Richard Murray, son of John, of Broughton, who died September 24, 1669, to Alexander of Eighan. By deed of February 8, 1721, these lands are assigned by Capt. David Conyngham, of Ballyherrin and Letterkeny, for the benefit of his children, and were found entailed by his son Redmond Conyngham, Esq., on his son David Hayfield Conyngham, by will, dated May 21, 1778, now in the hands of the writer.

Andrew, son of Alexander of Letterkeny, had (1), David, will dated November 18, 1757; (2), Rev. William; (3), Rev. Adam; (4), Gustavus, married his cousin, and had Capt. Gustavus, U. S. Navy, 1775-1784, distinguished during the Revolutionary war. He raised the first U. S. flag in the British channel; (5), Andrew; (6), Florinda; (7), Elizabeth; (8), Ann.

1. David Conyngham married Katherine O'Hanlon, daughter of Redmond O'Hanlon, the celebrated Rapparee of that unhappy time in Ireland, and who was outlawed by the English. He was a Sept of the race of Colla da Chrioch, descended and deriving their surname from Hanluan, chief of Hy-Reith-Thire, now the Barony of Orior, county Armagh, and is traced back by the "*Four Masters*" to Milesius, of Spain. O'Hanlon was one of those dispossessed of his possessions by the crown, and fighting as any patriot would fight for his land and liberties, was not only outlawed, but a heavy price set upon his head. This decree was however subsequently removed, as his grandson, Redmond Conyngham, in his will, disposes of property by entail received from Redmond O'Hanlon's estate. Redmond Conyngham's silver bears the Conyngham "shake fork," but he seals his will with the O'Hanlon arms, which are "*vert on a mount ppr., a boar passant erm.*" Crest, "*a lizard displayed vert.*"

David Conyngham had issue: (1), Redmond of Letterkeny, will dated May 21, 1778, probated November 23, 1784; (2), Isabella, married David Stewart, of Balto., of whom was Hon. David, member U. S. Congress, from Maryland, 1849; (3), Mary, married Rev. Thomas Plunkett, son of Sir Patrick Plunkett and his wife, grand daughter of Sir William Welles, Lord Chancellor of Ireland. They had two sons—Patrick, M. D., and William Conyngham, created *Lord Plunket* 1827, and Lord Chancellor of

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Ireland 1830-1841. The present Lord Plunket is also the Lord Bishop of Meath (See Burke's Peerage). (4), Elizabeth; (5), Katherine; (6), Hannah; (7), Florinda.

Redmond Conyngham came to this country before the revolution, and married, January 13, 1749-50, Martha Ellis, daughter of Robert, of Philadelphia. He was a member of the firm of J. N. Nesbitt & Co. Returned to Ireland before 1776, when his son, David Hayfield, took his place in the firm, which, under the names of J. N. Nesbit & Co. and Conyngham & Nesbit, aided very materially the cause of the colonies in various ways, doubtless saving the army of Washington at Valley Forge by its liberal donations.

Redmond Conyngham had (1), David Hayfield, born March 21, 1756, who married Mary West, and had William, Redmond, who married Judge Yeates' daughter, Mary Martha, Hannah Anne, Mary, Elizabeth Isabella, Catherine, wife of Ralph Peters, William, David, John Nesbit, LL. D.

Charles Miner Conyngham, seventh and youngest child of Hon. John Nesbit and Ruth (Butler) Conyngham, was born at Wilkes-Barre, July 6, 1840. Educated at Protestant Episcopal Academy, Philadelphia, and Trinity College, Hartford, Conn. Graduated A. B. 1859, A. M. 1862. Studied law with G. Byron Nicholson, of Wilkes-Barre, and admitted to the bar August, 1862, but has never engaged in the practice of the profession. During the war between the States, he entered the U. S. army as captain Company A, 143d Regiment, Pennsylvania Infantry, August 26, 1862; E. L. Dana, col.; George E. Hoyt, lieut.-col.; John D. Musser, major. When Lieut.-Col. Hoyt was killed, September 1, 1863, Major Musser was promoted to lieut.-col., and Captain Conyngham to the majority, to date and rank from June 2, 1863. Was engaged with his regiment in the battles of Chancellorsville, Gettysburg, the Wilderness, and Spottsylvania C. H. In the latter action, Col. Dana was wounded and captured, and Lieut.-Col. Musser killed, when the command of the regiment devolved on Major Conyngham, who, in the action of May 12, 1864, was so severely wounded that, July 26, 1864, he was honorably discharged the service. On his return from the army, instead of engaging in the practice of the law, he entered into

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mercantile pursuits, under the various firms of Conyngham & Paine, Chas. M. Conyngham; and also in coal mining operations, under the firm of Conyngham & Teasdale, at Shickshinny. Mr. Conyngham is also president of the West End Coal Company, and is a director in the Hazard Manufacturing Company and the Parrish Coal Company. He is also the head of the firm of Conyngham, Schrage & Company, who have extensive stores at Ashley, Sugar Notch, and Wilkes-Barre. During the administration of Governor Hoyt, of Pennsylvania, Major Conyngham held the office of Inspector-General of the National Guard. He is a communicant and junior warden of St. Stephen's Protestant Episcopal Church, Wilkes-Barre; one of the executive committee of the Luzerne County Bible Society; a member of Lodge No. 61, F. and A. M.; of the Loyal Legion of the United States; of the Society of the Potomac; and of the Grand Army of the Republic.

He married, Hartford, Conn., February 9, 1864, Miss Helen Hunter Turner, daughter of William Wolcot Turner, of Hartford, who graduated A. B., Yale, 1819; A. M., Yale and College, N. J., 1821; Ph. D., National Deaf Mute College, Washington, D. C., 1870; and is the author of "The School Dictionary, 1829." He still lives, upwards of 80 years of age. Major Conyngham has three children—Helen, Herbert, and Alice.]

John Nesbit Conyngham, LL. D., was admitted to the bar of Luzerne county April 3, 1820. In 1839, he was commissioned as a judge of the Court of Common Pleas, and with the exception of the years 1850-1851, he remained in commission up to the date of his resignation in 1870. He lost his life by an accident in Mississippi in 1871.

John Butler Conyngham, who was admitted to the bar of Luzerne county August 6, 1849, was a brother of Major Conyngham. At the time of his death, May 27, 1871, he was captain in the Twenth-fourth Infantry, U. S. A. He was appointed colonel of the Fifty-second Regiment, Pennsylvania Volunteers, during the late civil war. The year of his death, he was brevetted major and lieutenant-colonel in the regular army, for gallant service in the field.

As has been stated, Charles Miner Conyngham, although fitted by the regular course of study, and regularly admitted to

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the bar, never entered into active practice in the profession. It is, however, conceded by all who know him that, had he done so, he would have achieved as distinctively prominent and creditable a position in the legal arena as rewarded his bravery and general soldierly quality in the field and his business acumen and activity since his return from that performance of a patriot's duty. It is not needed that we go back to the venerable ancestry above briefly traced to learn that the Conyngham blood runs in the veins of men who make their mark in the world in whatever walk of life they choose to follow. Within the memory of men now living, the immediate relatives of the subject of this sketch have dignified the several professions they espoused, brought high honors to themselves and distinguished credit to the community in which they lived. Major Conyngham is a worthy scion of a noble house of useful men. He is just of middle age, of commanding and genial presence, the possessor of large means, and a foremost man in social as well as business circles.

Stephen Bedford, the great grandfather of George Reynolds Bedford, was a native of Suckasunny, Morris county, New Jersey, and was probably of English descent. After his death, the family removed to Ulster county, New York. Jacob Bedford, son of Stephen Bedford, entered the Revolutionary War at the age of fourteen years, his first service being garrison duty. He removed to the Wyoming Valley in 1792, where he remained during the whole of a long life. He died at the residence of his son, Andrew Bedford, M. D., at Waverly, Pennsylvania, August 23, 1849, aged 87 years. The first wife of Jacob Bedford was a Harriet, daughter of Benjamin Carpenter, who was commissioned a justice of the peace and one of the judges of the Court of Common Pleas of Luzerne county, May 27, 1787. William Hooker Smith was commissioned on the same day. In 1794, Benjamin Carpenter was a member of the House of Representatives of Pennsylvania. Elizabeth, another daughter of Mr. Carpenter, married Lazarus Denison, a son of Col. Nathan Denison. Hon. Charles Denison, who was admitted to the bar of Luzerne county August 13, 1840,

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was a son of Lazarus Denison. Mr. Carpenter removed to Sunbury, Delaware county, Ohio, in 1810. Jacob Bedford married May 16, 1799, for his second wife Deborah Sutton, daughter of James Sutton, of Exeter, Pa. Mr. Bedford was a prominent man in his day, and at one time was one of the largest owners of real estate in Luzerne county. On the 3d November, 1804, he was commissioned as coroner by Governor Thomas McKean. In October, 1810, he was elected sheriff of Luzerne county in connection with Jabez Hyde, but the then Governor Snyder gave the commission to Mr. Hyde, as he had the privilege of doing under the law. Dr. Peck, in his history of Early Methodism, writes of Mrs. Bedford: "There is still lingering upon the shores of time one member of this class (Ross Hill)—the first Methodist class formed within the bounds of our territory—and that is Mrs. Deborah Bedford. This 'mother in Israel' has ever been a uniform and consistent Christian, and an unflinching Methodist, and it is especially fortunate that she has been spared to leave behind her a record of the origin of Methodism in the Wyoming Valley. She is one of the number who have traveled with the church from early youth to extreme old age without ever having the slightest stain upon her Christian character, or exhibiting the least evidence of backsliding, or even of wavering in her Christian course. She has been a member of the church for seventy-two years (written in 1860, she died in 1869), and for forty-two years of this period it has been our happiness to enjoy her acquaintance and her personal friendship. She is now in the full exercise of her intellectual faculties, and often attends divine service."

> "Old men beheld, and did her reverence,
> And bade their daughters look, and take from her
> Example of their future life—the young,
> Admired, and new resolve of virtue made."

Mrs. Bedford was in Forty Fort at the time of the massacre, and it was her misfortune to be a witness of that disastrous day when, the battle lost, the stockade was given up to pillage, and at least one of its occupants to death. She joined the Methodist Episcopal Church in 1788 through the instrumentality of the pioneer laborers of that denomination, and became a member of

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the first class formed in Northern Pennsylvania. Perhaps no person in the United States had been a longer time a member than Mrs. Bedford at the time of her death. She was cotemporary in membership with John Wesley (who died in 1791) and the honored fathers who were his co-laborers in the building up of that church which now reflects such imperishable honors on their names. She was born in North Castle, N. Y., February 8, 1773, and died in Waverly, Pa., April 3, 1869.

Andrew Bedford, M. D., the father of George R. Bedford, was born at Wyoming, Pa., April 22, 1800, and is still living. He resides at Waverly, Pa., where he has practiced his profession for over half a century, but during the latter years of his life, his business has been mostly in holding consultations with his brother physicians. He graduated from the medical department of Yale college. The doctor has been a life long Democrat, and has filled many important offices at their hands. He was a member of the Constitutional Convention of 1838. It is believed that the only survivors of the members of that body are, besides Dr. Bedford, Ex-Chief Justice Agnew, of the Supreme Court of Pennsylvania, and Ex-Judge Henry G. Long, of Lancaster county, Pa. His colleagues in the convention from Luzerne county were Ex-Chief Justice George W. Woodward, General E. W. Sturdevant, and William Swetland. Dr. Bedford was prothonotary, clerk of the Courts of Quarter Sessions, and Oyer and Terminer, and of the Orphans' Court, from December, 1840, to December, 1846, being the first officer elected under the constitution of 1838 for the above named offices. Under the constitution of 1791, which was in force until 1838, all county officers were appointed by the Governor. He has also been postmaster at Waverly, Pa.

Dr. Bedford is a prominent member of the Methodist Episcopal Church, and has held the various offices connected with that denomination, such as steward, trustee, and class leader. He was an earnest advocate of lay representation, and was temporary chairman of the first lay convention (held at Owego, N. Y.) in the Wyoming Conference. He has been twice married. His first wife, whom he married in early manhood, was Hannah, daughter of Benjamin Reynolds, of Plymouth, Pa. Mr. Rey-

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nolds was a prominent citizen. He was sheriff of Luzerne county in 1831, and for many years was a justice of the peace at Plymouth. The fruits of this union were seven sons, five of whom are now living, George Reynolds Bedford being of the number. James S. Bedford, who was admitted to the bar of Luzerne county January 10, 1854, was one of the sons. He died in 1863 at Brownville, Nebraska, where he was practicing at the time. The second wife of Dr. Bedford was Mrs. Mary Burtis, *nee* Porter, whom he married in 1853. Her father was Orlando Porter, of Wilkes-Barre. She is the sister of the late Rev. George P. Porter, of the Wyoming Conference. They have but one child living, who is a daughter. John Bedford, a brother of the Doctor, was a prominent lawyer in Norwalk, Ohio. At the time of his death he was mayor of that city.

Dr. Bedford was one of the corporators of Madison Academy, located at Waverly. Here David L. Patrick, Garrick M. Harding, M. E. Walker, Alexander Farnham, Jerome G. Miller, and other members of the Luzerne county bar, were educated, either in whole or part. The Doctor has been one of its trustees since its incorporation. He was one of the incorporators of the Wilkes-Barre and Providence Plank Road Company, and also of the Liggetts Gap Railroad Company, which was merged in the Lackawanna & Western Railroad Company, and subsequently in the Delaware, Lackawanna & Western Railroad Company. On his retirement as a director, over thirty years since, he was voted a free pass for life.

James Sutton, the father of Deborah Bedford, was born March 7, 1744, and married Sarah, daughter of William Hooker Smith, June 22, 1769. He was a merchant at North Castle, West Chester county, New York, and when British goods were interdicted he sold his property and removed to Wyoming in company with his father-in-law. Mr. Sutton settled on Jacob's Plains, on the east side of the Susquehanna, two miles above Wilkes-Barre. Before the Indian troubles he removed to Exeter, on the west side of the river, about five miles above the head of the valley of Wyoming. Here he built a grist and saw mill upon a stream which gushes from a notch in the mountain, and now known as Sutton's Creek. Dr. George Peck, in his history of "Early

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Methodism," written in 1860, says, "The old Sutton house was situated in a gorge of the west mountain in the side of a steep hill, about twelve miles above Forty Fort. A mountain torrent rushes through the gorge, upon which 'Squire Sutton erected a grist mill. He had a taste for 'milling,' and for a large portion of his life he was engaged in that business. The spot was secluded just at the head of a considerable narrows on the winding Susquehanna. In that immediate neighborhood the population was sparse, and the people a delving, hardy race. Up the creek you saw a deep chasm cut through rocks and shaded with trees and shrubs, the most perfect specimen of gloom and solitude. Across the river the chain of mountains which follow the river, now advancing to the very edge and again receding and leaving a rich bottom, and ever varying in form and height, presents a most wild and poetic view. Here it was that 'Father and Mother Sutton' passed a half a century together, entertained two generations of Methodist preachers, received visits from distinguished guests, dispensed charities to the poor, and kept up an altar for the worship of Jehovah. Here the venerable Asbury found a 'home neat as a palace and was entertained like a king by a king and queen,' of which he gives ample evidence in his journal." Mr. Sutton was possessed of unusual mechanical genius. He was not a carpenter by trade, but aided by a Dictionary of Arts he was able to do most of the work of planning and constructing his mills himself. In the year 1777—the year before the battle—there was much talk of war with the Indians. Several persons were killed up the river and others taken prisoners. Mr. Sutton and John Jenkins, afterwards known as Colonel Jenkins, the ancestor of Hon. Steuben Jenkins, made a journey through the wilderness to Queen Esther's Flats in order to procure the liberation of Mr. Ingersoll, who had been carried into captivity. The distance was about ninety miles. The visitors were treated very courteously by the queen, and she was free in her communications with regard to the prospect of war. They were invited to spend the night with her, and the true spirit of hospitality seemed to characterize all her communications and arrangements. In the course of the evening, however, things took a new turn, and the travelers, for a while, were

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at a loss what construction to put upon the indications outside. A company of Indians came before the house, and seating themselves upon a log began to sing "the war song." The old queen went out to them, and was engaged in an earnest conversation with them for a long time; when she came in she frankly told her guests that the Indians were determined to waylay and kill them, adding, with great emphasis, "I can do nothing with them. Now," said she, "you lie down until I call you." They did so, and when all was still in the town, she called them, and then said, "You must go down the river. Go down the bank and take my canoe and paddle it without noise. Lift up the paddles edgewise, so as to make no splash in the water, and you may get out of reach before the war party find out which way you have gone." They slipped off and found the canoe which the queen had particularly described, scrupulously followed her directions, and found their way home in safety. In the spring of 1778, Mr. Sutton rented his premises in Exeter, and purchased a mill seat in Kingston, in the now borough of Luzerne.

On the day of the massacre, in the same year, Mr. Sutton remained in Forty Fort. Although a Quaker, he believed it to be right to fight in self-defense, and would probably have been in the battle had it not been necessary for him to stay with the women and children, and to take care of the sick. A few days following, Mr. Sutton took his family down the river to Middletown, Lancaster county, Pa., first building a boat to remove them. He remained in Middletown two years, and then returned to Wilkes-Barre. On his return, he found that his grist mill and house at Exeter had been burned down. His house in Kingston had in some way escaped the flames, but had been stripped of its covering. He immediately set to work and built a house on the lot now occupied by the residence of Irving A. Stearns. There was now no mill in the settlement, and Mr. Sutton set himself to work to build a mill, on Mill Creek, near the river. The mill stood and did good service to the settlement until the celebrated pumpkin flood in October, 1786, when it was carried away. During the Pennamite and Yankee wars, Mr. Sutton's house in Wilkes-Barre was burned. He then removed across the river, and built a house in Forty Fort, remaining there a short time,

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when he returned to his home at Mill Hollow, or Luzerne. Soon after, Mr. Sutton, in connection with Dr. Smith, built a forge at Lackawanna, but not succeeding as he desired in making iron, he returned to Exeter, where he died July 19, 1824. Mrs. Sutton died August 20, 1834. She belonged to a noble race of matrons, who endured their full share of the toils and sacrifices of the glorious fight with the dense forests, the wild beasts, and the wild Indians, and the dastardly tories, which resulted in the fruitful fields, quiet homes, flourishing schools, colleges and churches, and the free institutions, which now constitute America the glory of all lands. Mr. Sutton was appointed one of the justices of the peace by Governor McKean, on the 4th July, 1808, and on the same day sealer of weights and measures for Luzerne county. James Sutton, of this city, is a grandson. Putnam Catlin, who was admitted to the bar of Luzerne county May 27, 1787, the date of the organization of the county, was the husband of Polly, the oldest child of Mr. Sutton. He had been a drummer boy in the Revolution. In 1797, he was appointed by the Governor Brigade-Inspector for Luzerne county. In 1814, he was a representative in the Legislature of Pennsylvania. He removed to Windsor, N. Y., and from there to Brooklyn, Susquehanna county, Pa. He afterwards lived in Montrose, where he was cashier of the Silver Lake Bank. He afterwards removed to Great Bend, where he died in 1842, aged 77 years. He was vice-president of the first agricultural society held in Susquehanna county, January 27, 1820. George Catlin, the celebrated artist, was his son, and was born in Wilkes-Barre in 1796. He was brought up to the law, and practiced that profession in Philadelphia for two years, but art was his favorite pursuit; and forsaking the law, he established himself in New York as a portrait painter. In 1832, his attention having been called to the fact that the pure American race was disappearing before the march of civilization, he resolved to rescue from oblivion the types and customs of this singular people. With this object in view, he spent eight years among them, visited about fifty tribes, and brought home more than six hundred oil paintings (in every instance from nature) of portraits, landscapes, and Indian customs, and every article of their manufacture, such as weapons, costumes

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and wigwams. In 1840, he went to Europe with his collection of paintings; and in the following year, he published, at London, a work on the *Manners, Customs, and Condition of the North American Indians*, in two volumes, illustrated with 300 engravings. In 1844, he published *The North American Portfolio*, containing 25 plates of hunting scenes and amusements in the Rocky Mountains and the prairies of America. This was followed, in 1848, by *Eight Years' Travels and Residence in Europe*, in which he narrates the adventures of three different parties of American Indians, whom he had introduced to the courts of England, France, and Belgium. In 1853, Mr. Catlin left London for Venezuela, South America. He traversed British and Dutch Guiana, the valley of the Amazon, and other parts of Brazil, the Andes, Peru, Ecuador, Bolivia, California; reached Vancouver and Queen Charlotte's, and having visited most of the tribes of Indians of the Pacific coast as far as Kamtschatka and the Aleutian Islands, he returned to cross the Rocky Mountains, from San Diego to Santa Fe and Matamoras, thence to Guatemala, to Yucatan, to Cuba, and back to London. In 1861, he published a curious little volume in "manugraph" entitled *The Breath of Life*, on the advantage of keeping one's mouth habitually closed during sleep; and in 1868, appeared his *Last Rambles amongst the Indians of the Rocky Mountains and the Andes.* Mr. Catlin died in Jersey city, New Jersey, December 22, 1872. He left two daughters to survive him.

In the minutes of the court in 1794, it is stated that the only attorneys in Luzerne county were Ebenezer Bowman and Putnam Catlin (Rosewell Welles had been appointed judge). That E. Bowman has declined practice, and P. Catlin was about to decline; that Nathan Palmer and Noah Wadhams, jun., having been admitted in the Supreme Court of Connecticut, be "under the circumstances" admitted.

James Sutton early embraced the doctrines of Methodism, and was leader of the first class organized in the Lackawanna valley, and which consisted of five members. In December, 1782, the decree of Trenton was passed adjudging the right of jurisdiction and preemption to Pennsylvania; and on the 25th of September, 1786, Luzerne county was established by the Legislature of

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Pennsylvania. On the 27th December, a supplement was passed providing that Timothy Pickering, Zebulon Butler, and John Franklin notify the electors that an election would be held to choose a counselor, member of assembly, sheriff, coroner, and commissioners, on the first day of February, 1787. Oaths of allegiance were to be taken by the voters; and provision for the election of justices of the peace was made.

Col. Pickering was one of the most eminent men in the Union. Having the confidence of Washington and congress, he had executed with fidelity and approbation the office of Quartermaster General in the army. A native of Massachusetts, after the peace he settled in Philadelphia, becoming a citizen of Pennsylvania, and was selected, in addition to his great abilities and weight of character, for the reason that he was a New England man, to organize the new county, and introduce the laws of the state among the Wyoming people. He was subsequently Secretary of War and Postmaster-General of the United States.

Col. Butler, with great prudence, had kept himself aloof from all active measures of opposition. A captain in the old French war, a colonel in the revolutionary contest, having served with reputation and retired with honors; ambition having been satisfied, and age cooled the fervor of his ardent temperament, he desired peace; he longed ardently for repose, if it could be obtained with safety to his neighbors and credit to himself.

Col. Franklin, except in education and polish, was in no respect the inferior of Pickering; and it was a wise, though as it proved an unavailing stroke of policy to endeavor to conciliate the great Yankee leader, by naming him as one of the deputies to regulate the elections. But Col. Franklin was too deeply committed in interest and pledged faith to the grand scheme of establishing a new state to take a new oath of fidelity to Pennsylvania, and, either directly by himself or through the agency of his attached partizans, every obstacle short of absolute force was interposed to prevent the election being held. And now, for the first time, was presented the spectacle equally gratifying to foes and painful to friends of open and decided hostility among the Wyoming people. Whatever difference of opinion may exist in respect to the justice of their claim, no liberal mind could have traced their

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arduous course through toil and privation, through suffering and oppression, through civil and foreign war, and observed the fortitude, fellowship, and harmony among themselves that had prevailed, without a feeling of admiration for rare and generous virtues so signally displayed. In an equal degree was the mortification at the spectacle now presented. Col. Pickering came with assurances that, on the introduction of the laws and the organization of the county by the election of proper officers, which of course implied the oath of allegiance, measures of compromise would be forthwith adopted. Probably three-fourths of the ancient people sided with him, and were in favor of submission to the law. Among these were Col. Butler, Col. Denison, the Hollenbacks, the Rosses, the Williamses, the families of Carey, Gore, Nesbit, and others; while Franklin, the Jenkinses, the Slocums, Satterlee, Dudley, and others, especially the residents up the river, wished to defeat the election, insisting that confirmation of title to the settlers should precede, and not be left to follow, complete submission to the power of the state. It was a day of high excitement even for Wyoming, indeed of riotous commotion. Many a stalwart Yankee was engaged in combat fierce, and sometimes bloody, though not mortal, with a former friend, by whose side he had fought. In the midst of the wild uproar, when overwhelming force was apprehended, Col. Butler mounted his war steed and rode up and down amid the crowd, exclaiming: "I draw my sword in defense of the law; let every lover of peace and good order support me." In despite of opposition, the election was consumated. Col. Nathan Denison was elected to the Supreme Executive Council, John Franklin was chosen Member of Assembly, and Lord Butler, High Sheriff.

Thus, Luzerne being politically organized, courts established and the laws introduced under the auspices of Colonel Pickering sustained by the confirming law, he proceeded with wisdom and promptitude to conciliate the good will of the people—to assuage passion; to overcome prejudice; to inspire confidence. If Franklin was busy, Pickering was no less active. Without in the slightest degree lessening his dignity by unworthy condescension, he yet rendered himself familiar; talked with the farmers about corn and potatoes, and with their wives about the dairy,

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maintaining his own opinions with zeal, yet listening to others with respect. "He was no way a proud man," was the general expression of the ancient people. But they thought he farmed rather too much by books, and smiled to see him cart into his barn damp clover to cure by its power of generating heat in the mow. How entirely he sought to conform to the simple habits of the people is shown by the record in his own handwriting that Timothy Pickering and some other citizens "were elected fence viewers and overseers of the poor." Franklin meanwhile, with characteristic industry, visited from town to town, from settlement to settlement, and from house to house, kindling by his burning zeal the passions of his adherents to resist the laws, not by open violence, but by avoiding to commit themselves by taking the oath of allegience or participating in any measure that should seem to acknowledge the jurisdiction of the State, unless some law more comprehensive, liberal, and specific should first be enacted to quiet the settlers in their lands. At length a proposition was made and acceded to by both parties, that the whole people should be called together and a general meeting be held to talk over the matter in common council, a sort of ancient "Town meeting," though not "legally warned," to hear speakers on either side, and, if possible, to preserve union among those who had so long fought and suffered together, now separating into the most exciting and acrimonious divisions. Old Forty Fort was chosen as the ground. The day fixed, the north and the south, the east and the west, poured forth their anxious hundreds, plainly, nay, rudely dressed, for they were yet very poor, but with firm tread, compressed lip, and independent bearing, for though rough and sun burnt (on this great occasion who would stay at home?), they were at once a shrewd and a proud, as they were a hardy and brave, people. A stand was erected for the moderator, clerk, and speakers, and James Sutton was called on to preside. Colonel Pickering, assisted by the Butlers, the Hollenbacks, the Williamses, the Nesbits, and the Denisons, appeared as the advocates of law and compromise. Colonel Franklin, supported by the Jenkinses, the Spaldings, the Satterlees, and the Dudleys, came forth, the champions of the Connecticut title. Colonel Pickering first ascended

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the rostrum and opened the meeting by an able address, urging every motive in his plain, common sense, strong and emphatic manner that could operate leading to a fixed government of law and freedom from harrassing contests for their homes. He pledged his honor, dearer than life, that Pennsylvania was honest in her purpose, sincere in her offer of compromise, and that full faith might be reposed in her promise. Colonel Jenkins, in his brief and sententious way demanded, "What security have we that if we comply and put ourselves into your power, the State won't repeal the law and deal as treacherously as in the case of Armstrong?" Colonel Franklin now rose and replied with all the bitterness he was master of. Dwelt on the justice of the Connecticut title; the land was their own, purchased by their money, their labor, and their blood, the sufferings of the settlers, the wrongs and insults they had received from Pennsylvania; he set forth and declared the terms of compromise hollow and deceptive, and in no measured strains denounced all those who took part with Pickering. At this moment passions, long with difficulty suppressed, over-powered all prudential considerations, and Colonel Hollenback, one of the earliest and bravest of the settlers, drew the butt of his riding whip and aimed a blow at Franklin's head. Caught by some friendly arm it missed its aim, but the whole meeting was instantly thrown into wild confusion. The old argument of physical force was not yet quite out of date, and in the absence of fire-arms each man ran to the grove hard by and cut a club. Many blows were dealt out on both sides, but were so adroitly parried off that no heads were broken. There was a general melee; Mr. Sutton was driven from the stage and disappeared. Supposing that he was spirited away and was about to be victimized by some hair-brained partizan of Franklin, a party scoured the woods and by places, and found him now left to himself. A rather informal vote *to sustain the laws of Pennsylvania and accept the proposed compromise* was passed and the gathering dispersed.

Thomas Smith, the ancestor of William Hooker Smith, was a native of Newport, Pagnell, Bucks, England, emigrated to America about 1710, and located in the city of New York. He, with a few others, forsook the ministry of Anderson, and by the aid

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of the trustees of Yale College obtained Jonathan Edwards, then 19, to preach for them. Mr. Edwards referred with delight to his pleasant intercourse with Madam Smith and her son John, and when preaching in New York he made Mr. Smith's house his home. John Smith and Edwards were about the same age, and there sprang up between them a warm friendship, which lasted through life.

Rev. John Smith, the father of William Hooker Smith, and son of Thomas Smith, was born in Newport, Pagnell, Bucks, England, May 5, 1702. He graduated from Yale College in 1727, and was ordained minister at Rye, N. Y., December 30, 1742.

Some years after Mr. Smith removed his residence from Rye to White Plains, but continued to preach at Rye on alternate Sabbaths, riding to and fro on horseback. He was a man of rare excellence, able, earnest, consistent and godly. In 1763 he added the church at Sing Sing to his charge, where he occasionally preached for the next five years. He died at White Plains, N. Y., February 26, 1771. His remains lie in the church yard, and on the tomb it says: "First ordained minister of the Presbyterian persuasion in Rye and the White Plains," adding that "worn out with various labors he fell asleep in Jesus."

William Hooker Smith, M. D., removed from the Province of New York to Wilkes-Barre, Pennsylvania, in 1772, where he purchased land in 1774. As a surgeon and physician, his abilities were of such high order that he occupied a position in the colony as gratifying to him as it was honorable to those enjoying his undoubted skill and experience.

With the exception of Dr. Sprague he was the only physician in 1772 between Milford and Sunbury, a distance of one hundred and fifty miles. It is here worthy of remark that Joseph Sprague, M. D., came from Hartford in 1771, and for a period of thirteen years (with the exception of the summer of 1778) lived near the Lackawanna between Spring Brook and Pittston in happy seclusion, fishing, hunting, and farming, until, with the other Yankee settlers, he was driven from the valley in 1784 by the Pennamites. He died in Connecticut the same year. His widow, known throughout the settlement far and wide as "Granny

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Sprague," returned to Wyoming in 1785, and lived in a small log house then standing in Wilkes-Barre on the southwest corner of Main and Union streets, now occupied by the brick storehouse and dwelling owned by the estate of Andrew Kesler, deceased.

The formation of Luzerne county created positions of trust and honor, among which was the magisterial one; and although the Doctor was a Yankee by birth, habit, and education, such confidence was reposed in his capacity and integrity that he was chosen the first justice in the fifth district of the new county, and also one of the judges of the Court of Common Pleas. His commissions, signed by Benjamin Franklin, then President of the Supreme Executive Council of Pennsylvania, bears date May 27, 1787. Both the patriotic spirit and activity of Dr. Smith are shown by the fact that while he was relied on as chief medical attendant by the settlement, he yet accepted and exercised the post of captain commanding in Wilkes-Barre the "old reformadoes," as the aged men were called who associated to guard the fort. In 1779 he marched with the troops under General Sullivan into the Indian country along the upper waters of the Susquehanna, and by his cheerfulness and example taught the soldiers to endure their hardships and fatigues, taking himself an earnest part in that memorable expedition which brought such relief to Wyoming. Nor did Congress, prompted by noble impulses, forget his services as acting surgeon in the army, when in 1838, $2,400 was voted to his heirs. That his mind, active, keen, and ready, looked beyond the ordinary conceptions of his day is shown by his purchased right in 1791 to dig iron ore and stone coal in Pittston long before the character of coal as a heating agent was understood, and the same year that the hunter Gunther accidentally discovered "black stones" on Bear Mountain, nine miles from Mauch Chunk. These purchases, attracting no other notice than general ridicule, were made in Exeter, Plymouth, Pittston, Providence, and Wilkes-Barre, between 1791–8. The first was made July 1, 1791, of Mr. Scott, of Pittston, who, for the sum of five shillings, Pennsylvania money, sold "one-half of any minerals, ores of iron, or other metal, which he, the said Smith, or his heirs or assigns may discover on the hilly lands of the said John Scott, by the red spring."

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Old Forge, now in Lackawanna county, derived its name from Dr. Smith, who, after his return from Sullivan's expedition, located himself permanently here on the rocky edge of the Lackawanna river, where first in the valley the sound of the trip hammer reverberated, or mingled with the hoarse babblings of its water. The forge was erected by Dr. Smith and James Sutton in the spring of 1789. The forge prospered for years; two fires and a single trip hammer manufacturing a considerable amount of iron, which was floated down the Susquehanna in Durham boats and large canoes. The inpure quality and small quantity of ore found and wrought into iron with knowledge and machinery alike defective; the labor and expense of smelting the raw material into ready iron, in less demand down the Susquehanna, where forges and furnaces began to blaze; the natural infirmities of age, as well as the rival forge of Slocum's, at Slocum Hollow, now Scranton, all ultimately disarmed Old Forge of its fire and trip hammer.

After leaving his forge he removed up the Susquehanna, near Tunkhannock, where, full of years, honor, and usefulness, he died, July 17, 1815, among his friends, at the ripe age of 91 years. The Doctor was a plain, practical man, a firm adherent of the theory of medicine as taught and practiced by his sturdy ancestors a century ago. Armed with huge saddle bags rattling with gallipots and vials and thirsty lance, he sallied forth on horseback over the rough country calling for his services, and many were the cures issuing from the unloosed vein. No matter what the nature or location of the disease, how strong or slight the assailing pain, bleeding promptly and largely, with a system of diet, drink, and rest, was enforced on the patient with an earnestness and success that gave him a wide-spread reputation as a physician. The truth seems to have been that to great skill in his profession he united a large share of that capital ingredient, good common sense. In religious belief Dr. Smith was a predestinarian in the strictest sense of the word. In his will, written by his own hand, and dated March 19, 1810, he uses the following language: "I recommend my soul to Almighty God that gave it to me, nothing doubting but that I shall be finally happy. My destiny I believe was determined unalterably before

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I had existence. God does not leave any of His works at random, subject to chance, but in what place, where or how, I shall be happy I know not," and at the close of his will the following: "Now, to the sacred spring of all mercies, and original fountain of all goodness, to the Infinite and Eternal Being, whose purpose is unalterable, whose power and dominion is without end, whose compassion fails not, to the High and Lofty One Who inhabits eternity and dwells in light, be glory, majesty, dominion, and power, now and forevermore. Amen."

The late Hon. Isaac S. Osterhout, founder of the Osterhout Free Library of this city, was a grandson of Dr. Smith, and Hon. James Ross Snowden, at one time Speaker of the House of Representatives at Harrisburg, Treasurer of the State, and later Director of the United States Mint at Philadelphia, was a great-grandson.

George Reynolds Bedford, who at this writing is less than 44 years of age, bears a name as well known and respected throughout Luzerne county as that of any member of his profession here located. This honorable distinction he owes combinedly to his careful early training and a nervous spirit of ambition and fearlessness of obstacle inherited from an ancestry whose possession of these characteristics made many of them conspicuous figures in our local history. There are those who rail at the study of genealogy—who insist that it is at best but an idle search, and that generally its pursuit is spurred solely by the weakest of vanities. "The high ancestral name, and lineage long and great," these scoffers say, being so frequently descended to most unworthy sons, convey no merit or mark of it. Man is what he makes himself; not what he was made at birth. The ever ready nine numerals are called into argument, and, assuming the average life of man to be 30 years, it is calculated that each century and a half of the past has made sixty-two ancestors for the child born into the world, so that it has then in its veins, but one sixty-second of the blood of the head of the house from whom it has lineally come through the five generations. Of the head of the house, ten generations or three hundred years distant, but one—two thousand and forty-sixths of the blood remains. All this is logic run mad. Men of broadest minds are the pro-

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genitors of idiots, misers beget spendthrifts, a Hercules is father to a born paralytic, but to assume that there is not a rich inheritance in good blood, or that vital essence which, in considering the question of ancestry, we ignorantly call blood, is to dispute that there is progression and improvement in civilization and Christianity. Men rise to loftiest heights from lowliest beginnings, but a careful study will inevitably make plain that the germ of their greatness came to them from the mother's womb, and proportionally signal failures of man and womanhood following proportionately auspicious beginnings are as surely traceable to the same source. That genealogical record which exhibits richness of achievement begets a posterity capable of greater achievement, and the exceptions in this, as in all else, but prove the rule. It is not, however, to the name alone of an ancestry, or the position held by it, that we must look for the criterion to estimate the quality of the stuff of which its descendants are made. "The wives of kings, though violating the ordinance of God, have improved the blood of their line by the aid of their footmen." Achievement is the grand test. Those who have peopled new countries, and by their labor and genius made them to "blossom as the rose"—those who have wrought great things in mechanics and in art, and yet, amid all the strain attending the doing of these things, have been true to their duty to God, to God's great handiwork as embodied in their own physical and mental beings, and to their wives and children—these are the favored fathers of favored sons—these bequeath to their posterity from their loins a fortune of greater worth than silver, or gold, or precious stones. All this, however, is but parenthetical in our series of sketches, albeit, there is no little proof of its general correctness in the record of the ancestry of our immediate subject.

George Reynolds Bedford was born at Waverly, Pennsylvania, November 22, 1840. He was educated at the Madison Academy, in his native place, after which he entered the law office of Hon. Samuel Sherrerd, at Scranton, as a student in the profession that gentleman adorned. During a portion of the year 1860, he was a clerk in the office of the Prothonotary of Luzerne county, a position in which valuable experience in matters incident to the

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practice of the law is to be secured. He subsequently entered the Albany (N. Y.) Law School. He completed his legal education there, and in May, 1862, he was admitted, on examination, to the bar of the Supreme Court of the State of New York. He did not begin practice in the empire state, however, but came to Wilkes-Barre, and for the succeeding six months continued his studies in the office of Hon. Stanley Woodward. On November 10, 1862, he was regularly admitted a member of the bar of Luzerne county. During the following twelve years, Mr. Bedford applied himself assiduously to his professional duties, acquiring a comfortably paying practice, and a reputation as a careful and successful practitioner. He is a Democrat in politics, and did good service, locally, in the behalf of his party. When, therefore, in 1874, his name was mentioned in connection with the Democratic nomination for additional law judge, many flocked to his support from all parts of the county, as one who, both by reason of his party service and legal attainments, was fitted for the distinguished honor. The competing candidates were Hon. John Handley, now president judge of the courts of Lackawanna county; Hon. D. L. O'Neill and Asa R. Brundage, Esq., of Wilkes-Barre. The contest was a very spirited one. In the convention, Mr. Bedford led all his competitors through a series of ballotings up to the last, when Mr. Handley, having secured a small majority of the votes, was declared the nominee. The victory was almost wholly one of locality. There was a growing disaffection of the people of the upper end of the county at the time, occasioned by the opposition of Wilkes-Barre to the then proposed new county of Lackawanna, and Mr. Bedford, being from the objectionable city, was sacrificed. The friends of the approaching secession naturally assumed that Mr. Handley would be its friend and lend his influence to promote it. Under other circumstances, Mr. Bedford would undoubtedly have been the candidate, and that he would have made an excellent judge is abundantly proven by his combined successes as a practitioner, and by the high esteem in which he is still held by citizens of all parties.

Mr. Bedford has never filled—has never since been a candidate for—any political office, although he has been active in the coun-

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cils of his party, and from time to time did it important service from the stump.

He has, however, been a director of the Wilkes-Barre City Hospital, a trustee of the Memorial Presbyterian Church and of the Franklin Street Presbyterian Church. He is now a trustee of the Female Institute of Wilkes-Barre, and for the last ten or twelve years has been one of the masters in Chancery.

He married May 19, 1874, Emily L., daughter of the late Hon. Henry M. Fuller, and has had two children, sons, both of whom are living.

In 1863, he enlisted as a private in Captain Agib Ricketts' Company K, 30th Regiment, Pennsylvania Volunteer Militia, and was subsequently promoted to the position of colonel's clerk. There were several members of the Wilkes-Barre bar in this company. Among them C. P. Kidder, E. K. Morse, H. B. Plumb, Alexander Farnham, and others. Mr. Farnham was at first second-lieutenant, and afterwards became adjutant-general of the brigade. The company did service in what was known as the Gettysburgh campaign, and continued in the field about six weeks. Captain Ricketts refused to be mustered into the United States service, and E. W. Finch, who was the first-lieutenant, was elected captain in Mr. Ricketts' place.

Mr. Bedford is of medium stature and build. He is devoted to his clients and his books, and by an ever present sagacity and an unusual industry, assures to the former all that in justice or equity is warranted by the latter. He does not, however, permit professional matters to engross his time and attention to the neglect either of his social or political duties. He takes a marked interest in his family and all that relates to it, is much sought after in society because of his vivacity and bright conversational capacities, and his opinion is as likely to unravel a knotty problem in politics as that of any man in the county. As chairman of the Democratic Committee of the Twelfth Congressional District in 1882, he so organized and led his forces as to bring a creditable victory out of what at one time looked to be a very dubious situation.

Mr. Bedford's life is yet to be written. He comes, as will appear from the brief sketches of some of his ancestry herewith

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incorporated, of a stock remarkable for its longevity. With a fair prospect of at least as many years before him as have been recorded in his past, he may be expected to have the best part of his history yet to make.

Court of Common Pleas of Luzerne County.

GEORGE GERSTLE *v.* BARBARA REISS.

In a decree for specific performance of a contract for sale of land where the plaintiff is ordered to pay the purchase money into court before he can demand a deed, the court will order that it shall no be paid out to the defendant without previous notice to the plaintiff.

Such money is first applicable to encumbrances upon the land done or suffered by the defendant.

Exceptions to proposed decree.

The opinion of the court was delivered January 7, 1884, by

WOODWARD, J.—Rule xvi., paragraph 88, of equity rules of practice adopted by the Supreme Court on May 27, 1865, provides that "in all cases where these rules, or those prescribed by the other courts, do not apply, the practice of the courts shall be regulated by the present practice of the High Court of Chancery in England, so far as the same may reasonably be applied consistently with the local circumstances and local convenience of the district where the court is held, not as positive rules, but as furnishing just analogies to regulate the practice."

The decree recommended by the master in the present case, and submitted to us by the counsel for the plaintiff for our approval, resembles what is known in the High Court of Chancery as a "stop order." The purchaser asks leave to pay the purchase money into court, and also that it may not be paid out again to the parties claiming it without notice to him. The object of this is to give him a lien upon the purchase money, until a proper conveyance free from encumbrances has been delivered, and possession been given. The practice in such cases is fully laid down in Daniel's Chancery Pleading and Practice, fourth edition, Vol. II., 1,279, to which we refer.

The exceptions to the proposed decree are overruled.

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1	In Re Estate of Jacob Drum, deceased	Brundage, Kisner	Exceptions to account of Executor.
2	In Re Estate of Gwennie Davis, deceased	Connolly, Davis, Wells	Exceptions to account of Executor.
3	In Re Estate of Peter Mill, deceased	Payne, Darling	Exceptions to final account of Guardian.
4	In Re Estate of Peter Mill, deceased	Payne, Darling	Exceptions to final account of Guardian.
5	In Re Estate of John Fell, deceased	Hand, Darling	Exceptions to sale of R. E.
6	In Re Estate of A. S. Rogers, deceased	Nichols, T. H. B., Lewis	Exceptions to final account of Guardian.
7	In Re Estate of Darius L. Myers, deceased	Nichols, T. H. B., Lewis	Exceptions to final account of Guardian.
8	In Re Estate of Edward Boyle, deceased	Cannon, Lenahan	Exceptions to final account of Guardian.
9	In Re Estate of Amzi Wilson, deceased		Exceptions to final account of Executor.

ESTATE OF ABIAH SUTLIFF, LATE OF Ross township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. J. WILKINSON,
Bloomingdale, Pa.

1-6

ESTATE OF AMY WILKINSON, LATE OF Ross township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. J. WILKINSON,
Bloomingdale, Pa.

1-6

ESTATE OF CLARA ROOD, FORMERLY Wiant, late of Fairmount township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

DENNIS WIANT,
Harveyville, Pa.

1-6

ESTATE OF JAMES MOYER, LATE OF Hollenback township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ABRAHAM MOYER,
AARON MOYER,

A. R. BRUNDAGE, Hobbie, Pa.
Attorney.

4-9

ESTATE OF MARY ANN DAVIS, LATE OF Wilkes-Barre, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ABRAM NESBIT,

GEORGE K. POWELL, Kingston, Pa.
Attorney.

3-8

ESTATE OF MARGARETTA RITTERSBACHER, late of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

FREDERICK G. SMITH,
3-8 Wilkes-Barre, Pa.

ESTATE OF JAMES GIVENS, LATE OF Hazleton, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BRIDGET GIVENS,
4-9 Hazleton, Pa.

ESTATE OF JOHN L. JONES, LATE OF Freeland, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WILLIAM L. JONES,

JOHN D. HAYES, Freeland, Pa.
Attorney.

3-8

ESTATE OF WILLIAM STONE, LATE OF Hazle township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES STONE,
4-9 Stockton, Pa.

ESTATE OF FERDINAND BRUNE, LATE of West Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH D. BRUNE,

GEO. S. FERRIS, West Pittston, Pa.
Attorney.

6-11

ESTATE OF ARAMINDA CRAWFORD, LATE of Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

B. G. CRAWFORD,

B. M. ESPY, Wilkes-Barre, Pa.
Attorney.

6-11

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ESTATE OF ISAAC KREIDLER, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE KREIDLER,
4-9 Wilkes-Barre, Pa.

ESTATE OF GARNER H. SNYDER, LATE of Plymouth, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEO. W. SHONK,
52-5 Plymouth, Pa.

ESTATE OF SUSAN WOLF, LATE OF UNION township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. H. WOLF,
1-6 Lehman, Pa.

ESTATE OF MILES SWEENEY, LATE OF Jenkins township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE SWEENEY,
6-11 Pittston, Pa.

ESTATE OF GEORGE COREY, LATE OF West Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

E. A. CORAY,
W. H. CORAY,

E. S. OSBORNE,
Attorney. 2-7

ESTATE OF JAMES BOYD, JR., LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. G. WEAVER,
JAMES BOYD, SR.,
J. L. LENAHAN, Wilkes-Barre, Pa.
Attorney. 5-10

ESTATE OF DELPHINE E. VER PLANK, late of West Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SAMUEL P. FENN,
G. S. FERRIS, Pittston, Pa.
Attorney. 5-10

ESTATE OF JONAS LONG, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

PAULINA LONG,
S. J. STRAUSS, Wilkes-Barre, Pa.
Attorney. 6-11

ESTATE OF FRANCIS R. S. WINTERS, LATE of Franklin township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WM. H. BODLE,
2-7 Orange, Pa.

ESTATE OF R. J. WISNER, LATE OF WEST Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

THEODORE STRONG,
CHARLES H. FOSTER,
J. A. WISNER,
G. S. FERRIS, Pittston, Pa.
Attorney. 5-10

ESTATE OF HANNAH MEEKER, LATE OF Fairmount township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES MEEKER,
1-6 Lehman, Pa.

ESTATE OF BILLY HARRISON, LATE OF Huntington township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. J. WILKINSON,
1-6 Bloomingdale, Pa.

ESTATE OF HENRY KROPP, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH KROPP,
L. D. SHOEMAKER, Wilkes-Barre, Pa.
Attorney. 5-10

ORPHANS' COURT SALE.

Estate of Mary Culver, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Friday, the 15th day of February, 1884, at 10 o'clock A. M., the following piece of land in the township of Ross, bounded on the north by lands of Jacob Ely and Jeremiah Sickler estate, on the east by lands of Henry Long and Hillman Moss, on the south by lands of Nathan Culver and Warren Hoffman; all improved, except about 15 acres in woodland; containing about 44 acres, together with the appurtenances, a 1½-story frame house, and a small orchard.

TERMS OF SALE.—One-half the purchase money down at the time of sale, balance on confirmation of sale and delivery of deed.

ELISHA CULVER,
DORRANCE & PRICE, Administrator.
Attorneys. 4-6

ORPHANS' COURT SALE.

In Re Estate of John Fritz, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, at Wilkes-Barre, on Wednesday, the 20th day of February, A. D. 1884, at two o'clock P. M., the following real estate, namely: All the coal underlying two pieces of land, bounded and described as follows: the first one situated in Wilkes-Barre township and Hanover township, county of

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Luzerne, and state of Pennsylvania, beginning at a corner of the main road leading from Wilkes-Barre to Hanover, adjoining lands of Sarah Bennett and J. W. Horton; thence along the said road, south 58 degrees 30 minutes west, 36 8-10 perches to the center of Solomon's creek; thence down the same in the center thereof, north 12 degrees 30 minutes west, 13 perches north, 47 degrees 15 minutes east, 2 perches; thence north 63 degrees east, 12 perches north, 70 degrees east, 6-10 perches to a corner in line of Sarah Bennett and J. W. Horton; thence south 48 degrees 30 minutes east, 12 4-10 perches to the said Hanover road, the place of beginning; containing 2 acres and 103 8-10 of a perch more or less. The second.—All the coal underlying another piece of land, beginning at a corner at the road leading from the Hanover road to the River road; thence along land of Milan Barney and George Shannon, north 58 degrees 36 minutes east, 17 6-10 perches; thence south 48½ degrees east, 6 perches; thence south 58 degrees 30 minutes west, 17 6-10 perches to the place of beginning; containing 101 7-10 perches of land. Together with the right to mine and remove the said coal, without, however, doing any injury to the surface.

TERMS OF SALE.—$200 cash down, and the balance, with interest thereon, on the day of confirmation of the sale.

ANTHONY VOGT,
Administrator.

GUSTAV HAHN,
Attorney. 5-7

ORPHANS' COURT SALE.

In Re Estate of Barney Hunsinger, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, on Saturday, the 1st day of March, A. D. 1884, at one o'clock P. M., a certain piece of land situated in the township of Black Creek, county of Luzerne, and state of Pennsylvania, bounded and described as follows: beginning at a stone corner in the public road leading from Seybertsville to Nescopeck Gap in the line of lands of Amos McNeal; thence along said public road and lands of Thomas Saeger, south 89 degrees west, 71 8-10 perches; thence by the same lands and along the same road, north 73 degrees west, 18 7-10 perches to a stone in the cross roads; thence by lands of Jacob Wright on another public road, south 19 degrees west, 15 8-10 perches to a stone in said road; thence by lands of the estate of Philip Hess, deceased, south 57½ degrees east, 36 perches to a pitch pine; thence by the same, south 2 degrees east, 60 perches to a post; thence by lands of the same, south 11½ degrees east, 33 4-10 perches to a stone in Nescopeck creek; thence by lands of the same and up said creek the two following courses and distances, south 53 degrees east, 28 perches, and south 78 degrees east, 13 perches on the creek; thence by lands of the said Amos McNeal, north 7½ degrees west, 115 perches to the place of beginning; containing 46 acres and 150 perches of land more or less; with a 1½-story log house and barn and stable and other outbuildings thereon. The land is nearly all clear, with a 1½-story frame house and outbuildings thereon. There is also a young orchard of apple trees and other fruit.

TERMS OF SALE.—Ten per cent. of one-third of the purchase money to be paid on the day of the sale; the remainder of the one-third, after deducting the said ten per cent., to be paid on confirmation of the sale; another one-third in one year from the day of the sale; and the remaining one-third or so much thereof as may amount to the dower of the widow, payable upon the death of the widow. Deferred payments to be secured by bond and mortgage. Interest to be paid on all unpaid purchase money from the date of the sale.

SAMUEL BENNER,
Administrator.

GUSTAV HAHN,
Attorney. 5-7

ORPHANS' COURT SALE.

Estate of Jesse Hart, deceased. By virtue of an order of the Orphans' Court, there will be exposed to public sale, on Tuesday, March 4, 1884, at 2 o'clock P. M., on the premises in Black Creek township, the following lots of land: The first thereof, in Black Creek township, beginning at a post, thence along line of Mahoney street 6 8-10 perches to a post, thence along land of William Wolf 12 6-10 perches to the middle of Black Creek, thence along middle of Black Creek 10 8-10 perches, thence along land of Elias Smith 11 1-10 perches to the place of beginning; containing 102 perches, strict measure; reserving and excepting certain water rights. Also, one other lot of land in said Black Creek township, beginning in the middle of Black Creek, thence by land of Edward Hart 12 6-10 perches to a post, thence by line of Mahoney street 8 6-10 perches to a post, thence by land of William and Ann Wolf 12 6-10 perches to the middle of Black Creek, thence by line of Elias Smith in the middle of Black Creek 8 6-10 perches to the place of beginning; containing 106¾ perches; reserving and excepting certain water rights; all improved, with small dwelling houses thereon.

TERMS OF SALE.—One-third cash on day of sale, balance on confirmation of sale.

JOHN HART,
Administrator.

A. R. BRUNDAGE,
Attorney. 6-8

ORPHANS' COURT SALE.

Estate of Elizabeth Bulkeley, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, in the city of Wilkes-Barre, on Tuesday, March 11, 1884, at 10 o'clock A. M., the following piece of real estate, in the fourth ward of the city of Wilkes-Barre, beginning at a point on Union street, between Franklin and River streets, at a corner of land the property of Joseph Stickney, thence along Union Street 45 feet to a corner of land the property of J. M. Crane, thence at right angles to said street 140 feet more or less to the line of the North Branch canal, thence along the said line of the North Branch canal 45 feet to the line of Stickney's land, thence 140 feet more or less to the place of beginning; improved, with one large 2½-story dwelling house, also, a barn and outbuildings.

TERMS OF SALE.—One-fourth of the purchase money on day of sale, one-fourth on confirmation absolute and delivery of the deed; the balance to be secured by bond and mortgage on the premises as follows: the sum of $833.34 to remain until after the death of Mrs. Fannie Pierce, interest thereon to be paid semi-annually to the Executor for said Fannie Pierce, and the balance of one-half to be paid, with interest, one year thereafter date.

J. E. BULKELEY,
Executor.

S. J. STRAUSS,
Attorney. 6-8

SHERIFF'S SALES.

Abstract of property to be sold by J. S. Oberrender, Sheriff of Luzerne county, on Saturday, February 16th, A. D. 1884, at 10 o'clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are numbered, to wit:

1

Suit of Samuel Line, Administrator of the estate of Martha Fairchild, deceased, v. Charles Garringer.

373 January term, 1884. Debt, real, $2,987.50. Fi. fa. 85 January term, 1884.

Bennett & Nichols, Att'ys.

All those two lots of land in the borough of Nanticoke, 1, beginning at a corner on the east side of the township road leading to Lines station on the L. & S. road, thence along the line of said township road 72 feet to a corner, thence about 144 feet to an alley, thence along line of same 72 feet to a corner, thence 143 feet 7½ inches to the place of beginning; containing about 10,368 square feet of land; improved, and having erected thereon one two-story frame dwelling, with fruit trees; excepting and reserving the coal and other minerals.

2. Beginning at a corner on the east side of said township road, thence along line of same 119 feet 7 inches to a corner, thence 147 feet 4½ inches to an alley, thence 121 feet 1 inch to a corner, thence about 144 feet to the place of beginning; containing about 17,616 square feet of land; improved, and having erected

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thereon one two-story frame dwelling, one frame barn, with fruit trees; excepting and reserving coal and other minerals.

NOTE.—The land first above described is lot 49 and part of lot 50, and that second above described is lots 51, 52, and part of lot 50 on plot laid out by the Susquehanna Coal Company, and the whole of the land above described is the same as that embraced in a mortgage of Charles Garringer to Martha Fairchild.

2

Suit of Thomas Ford v. Isabel M. Geddis and Hattie D. Geddis.

135 November term, 1880. Debt, $736.61. Fi. fa.
89 January term, 1884. Ferris, Att'y.

1. All the surface of that lot of land in the borough of West Pittston, beginning at a corner in line of Boston avenue, thence along lot of H. E. and I. M. Geddis 200 feet to a corner, thence along an alley 50 feet to a corner, thence 200 feet to said Boston avenue, and thence along the same 50 feet to the place of beginning; containing 10,000 square feet of surface of the same more or less.

2. All that lot of land in the borough of West Pittston, beginning at a corner in line of Boston avenue 300 feet, and 14 feet in the direction of south, 33 degrees east from the Tunkhannock road, thence 200 feet to a 25 feet alley, thence along said alley 100 feet to a corner, thence 100 feet to said Boston avenue, and thence along the same 100 feet to the place of beginning; containing 20,000 square feet of land more or less; being lots Nos. 54 and 56 on Boston avenue; reserving all coal and other minerals; all improved, and having erected thereon a two-story frame dwelling house, back kitchen attached, and other outbuildings.

3

Suit of Charles Smith v. Charles W Lathrop.

859 April term, 1879. Debt, $48. Fi. fa. 93 January term, 1884. Foster, Att'y.

All the following one-half interest of the lot of land, being two acres of land, in Lehman township, beginning at a stake on the main road leading from Huntsville to Harvey's Lake on the line of land owned by Wesley Lameraux, thence along the line of said Lameraux's land in a southwesterly direction 32 rods to a corner, thence in a northeasterly direction 10 rods to a corner, thence in a northwesterly direction 32 rods to a corner on said main road, thence in a southwesterly direction along said line 10 rods to the place of beginning.

4

Suit of A. F. Peters & Son, assigned to C. W. Kline, Attorney for Watsontown Planing Mill Company, v. Ernest Shadel.

140 May term, 1882. Debt, $159. Al. fi. fa. 5 February term, 1884. Kline, Att'y.

All that lot of land in the township of Foster, near Freeland, beginning at a corner on the east side of Birkbeck street and about 331½ feet south of land now owned by Thomas Birkbeck, thence on Birkbeck street 26 feet to a corner, thence by lands of Joseph Birkbeck's east 127¾ feet to a corner of land belonging to Highland Coal Company, thence by same 92 feet to a corner, thence by lands of Joseph Birkbeck's estate 129⅓ feet to the place of beginning; containing 11,831 square feet of land more or less; all improved, and having erected thereon one two-story frame dwelling house, privy, stable, outbuildings, and fruit trees.

5

Suit of L. D. Shoemaker v. William Patten and Mary Josephine Patten and Jenny Walker Patten, by their guardian, William Patten, and Frederick Miller, James Courtright and Samuel Barton.

Palmer, Att'y.

All that piece of land, in the township of Kingston, beginning at a stone corner on line of lot No. 30, second division, about 144 rods from the main road and at a point for a corner of land sold to Frank Helm, thence 20 3-10 rods to a corner in line of lot No. 28, thence along line of lot No. 28 162 rods to the Susquehanna river, thence down the same 20 7-10 rods to the corner of lot No. 30, thence 167 rods to the beginning; containing 20 acres more or less, and being part of lot No. 29, second division of lots in said township.

6

Suit of Jacob Crause v. E. K. Shellhammer and Augustus Crause, Administrators of Samuel Shellhammer, deceased.

425 October term, 1883. Debt, $465.55. Al. fi. fa.
96 January term, 1884. Payne, Att'y.

1. All that tract of land in Black Creek township, beginning at a pitch pine, thence by land of Peter Smoyer 207 perches to a stone corner on line of Wm. Sheilhammer, thence by land of Wm. Shellhammer and Peter Roberts 62 5-10 perches to a stone corner on land of David Shellhammer, thence by said David Shellhammer's land 88 5-10 perches to a corner, thence 12 perches to corner in line of John Hart, thence by land of said Hart 82 perches to stones, thence 45 3-10 perches to corner, thence 14 8-10 perches to stones corner, thence by land of E. K. Shellhammer 52 4-10 perches to stones on land of Abram Smith, thence by said Smith's land 100 perches to place of beginning; containing 106 acres and 35 perches; about 65 acres improved, with two two-storied wood dwelling houses, a wood barn, one saw mill, wagon shed and corn crib, and other outbuildings; two apple orchards; occupied by Samuel Shellhammer when he died.

2. All that tract of land in Black Creek township, beginning at a pitch pine corner on land of David Shellhammer, running thence by David Shellhammer's land 101 perches to a pitch pine corner, thence 41 perches to a maple corner, thence by land of William Reagan 118 perches to stones, thence 15 perches to corner on lands of Samuel Shellhammer, thence by said Shellhammer's land 52 4-10 perches to stones corner, thence 14 8-10 perches to stones, thence 18 6-10 perches to a hemlock, thence 10 perches to stones, thence 11 9-10 perches to a corner common to lands of John Hart and Samuel Shellhammer, thence by land of John Hart 49 perches to a walnut, thence 18 3-10 perches to a stones, thence 62 perches to land of Perry Boone, thence by said Boone's land 69 perches to place of beginning; containing 87 acres and 130 perches; about 25 acres improved, with two two-storied wood dwelling houses, one wood barn, one wagon shed, one wood stable, one bone mill, one apple orchard.

7

Suit of Isaac Tripp, now assigned to Sarah E. Atherton v. E. A. Coray.

41 October term, 1881. Debt, $6105.64. Vend. ex.
3 February term, 1884. Payne, Att'y.

All the following described piece of land in Exeter township, bounded easterly by the Susquehanna river, westerly by lands of William Heisler and George Hill, northerly by lands of George Miller, William Hepler and E. A. Coray, and southerly by lands of Casper Oberdorfer; containing 115 acres of land more or less; about one-half improved with one wood dwelling house, one wood barn, and one old wood barn thereon 4-6

ESTATE OF FREDERICK BACH, DEC'D.

To Frederick Bach, Jr. You are hereby notified that the Orphan's Court of Luzerne County, Pa., upon the petition of C. F. Teufel, a creditor of the Estate of Frederick Bach, deceased, has awarded an alias citation to you to be and appear before the said Court, at Wilkes-Barre, in said county, on the last Saturday of February, 1884, at 10 o'clock A. M., to show cause why you should not be removed as executor of the estate of said deceased, and why letters testamentary granted to you in said estate should not be revoked, on the ground of your having removed from this commonwealth, and have had no known place of residence therein for more than one year.

S. M. RHONE,
5-7 Attorney for C. F. Teufel.

IN THE COURT OF QUARTER SESSIONS of Luzerne county. No. 148, December sessions, 1883. In Re Additional Election District in Kingston township. Notice is hereby given, that the report of the Commissioners in the above stated case has been filed with the Clerk of the Court of Quarter Sessions, and was confirmed nisi by the court on the 4th day of February, 1884, and that said report will be confirmed absolutely by the court unless exceptions thereto be filed not later than the third day of the next term of said court.

L. K. STRENG,
6-8 Clerk Q. S.

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AUDITOR'S NOTICE.

The undersigned, an auditor, appointed by the Court of Common Pleas of Luzerne county to distribute the fund arising from the Sheriff's sale of the personal property and real estate of James Garrahan and Thos. Garrahan, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, in Wilkes-Barre, Pa., on Monday, February 25th, 1884, at 10 o'clock A. M., at which time and place all parties interested are required to appear and present their claims, or else be debarred from coming in on said fund.

JOHN S. HARDING,
4-7 Auditor.

AUDITOR'S NOTICE.

The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county to pass upon the exceptions to the account of Andrew Bryden, Trustee of The Pittston Knitting Company, Limited, and make distribution of the fund in the hands of the Trustee, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, in Wilkes-Barre, Pa., on Thursday, the 28th day of February, 1884, at 10 o'clock A. M., at which time and place all parties interested are required to appear and present their objections and claims, or be debarred from coming in on said fund.

WILLIAM S. McLEAN,
5-8 Auditor

AUDITOR'S NOTICE.

The undersigned, an auditor appointed by the Court of Common Pleas of Luzerne County to distribute the fund arising from the Sheriff's sale of the personal property of George S. Burgan, hereby gives notice that he will attend to the duties of his appointment, at his office on Franklin street, in Wilkes-Barre, Pa., on Tuesday, February 12th, 1884, at 10 o'clock A. M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

JOS. D. COONS,
3-6 Auditor.

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 776, October term, 1883. Libel in divorce a vinculo matrimonii. Hannah Tiffany, by her next friend, John Moore, *v.* Perry Tiffany. The alias subpoena in the above case having been returned, "That the said Perry Tiffany cannot be found in Luzerne county." You, the said Perry Tiffany, respondent, are required to appear on Monday, February 11, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
E. D. NICHOLS, Sheriff.
Attorney. 3-6

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 700, October term, 1883. Libel in divorce a vinculo matrimonii. Sarah J. McFarlane, by her next friend, George L. Philips, *v.* John McFarlane. The alias subpoena in the above case having been returned, "That the said John McFarlane cannot be found in Luzerne county." You, the said John McFarlane, respondent, are required to appear on Monday, February 11, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
GEO. K. POWELL, Sheriff.
Attorney. 3-6

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county, No. 113, May term, 1883. Libel in divorce a vinculo matrimonii. Mary Jane Skipper, by her next friend, Mary Moharter, *v.* Elijah Skipper. The alias subpoena in the above case having been returned, "That the said Elijah Skipper cannot be found in Luzerne county." You, the said Elijah Skipper, respondent, are required to appear on Monday, March 3, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
G. H. R. PLUMB, Sheriff.
Attorney. 5-8

LUZERNE COUNTY, ss;

In the Court of Common Pleas of said county. No. 630, October term, 1883. Libel in divorce a vinculo matrimonii. Catharine Jones, by her next friend, John Gaynor, *v.* John F. Jones. The alias subpoena in the above case having been returned, "That the said John F. Jones cannot be found in Luzerne county." You, the said John F. Jones, respondent, are required to appear on Monday, March 3, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
J. T. LENAHAN, Sheriff.
Attorney. 5-8

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 250, May term, 1883. Libel in divorce a vinculo matrimonii. F. S. Hudnut, by her next friend, etc., *v.* S. A. Hudnut. The alias subpoena in the above case having been returned, "That the said S. A. Hudnut cannot be found in Luzerne county." You, the said S. A. Hudnut, respondent, are required to appear on Monday, March 3, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
G. R. BEDFORD, Sheriff.
Attorney. 6-9

NOTICE IS HEREBY GIVEN, THAT THE Account of Herz Lowenstein, Assignee of S. Lowenstein, for the benefit of Creditors, was filed 28th January, 1884, and that the same will be confirmed on Monday, February 18th, 1884, at 10 o'clock A. M., unless cause be shown why it should not be allowed.

JAMES M. NORRIS,
5-6 Prothonotary.

CHAS. D. FOSTER,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

WILLIAM S. McLEAN,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

W. S. PARSONS,
ALDERMAN,
WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, FEBRUARY 15, 1884. No. 7.

Court of Common Pleas of Luzerne County.

W. M. MILLER *v.* G. M. BLACK *et al.*

Under the sheriff's interpleader act of 10th April, 1848, and in other feigned issues, the costs do not necessarily, and of course, follow the verdict. The costs in all such proceedings are within the discretion of the court.

Rule to show cause why defendant's bill of costs should not be set aside.

The opinion of the court was delivered February 11, 1884, by

WOODWARD, J.—On the 6th December, 1881, the garnishees filed their answers to the interrogatories directed to them by Miller, the plaintiff. In these answers, and the affidavit filed at the same time, they state, in substance, that they have in their hands the sum of four hundred dollars, which they had supposed belonged to G. M. Black, the defendant, but that they have received notice from Frederick G. Black that the money in question (the proceeds of the sale of a lot of cabbages) belongs to him, and not to G. M. Black. They accordingly ask leave to pay the money into court.

On the same day, the court directed the garnishees to pay in the money, and thereupon granted a rule on W. M. Miller and Frederick Black, to appear in court on Monday, the 12th day of December, to show cause why an issue in the nature of an interpleader should not be framed between them, to determine the ownership of the fund.

On the 12th December, 1881, the rule thus granted was made absolute, and it was further ordered as follows: "That said case be put at issue between said W. M. Miller, as plaintiff, and said

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Frederick G. Black, as defendant, by the said plaintiff filing his declaration within fifteen days from this date, and serving a copy of the same on the said defendant, and thereupon defendants to plead within five days after such service, and serve a copy of the same on the plaintiff, who shall file his replication thereto within five days thereafter; and the issue thereby made shall be set down among the issues at the head of the trial list for next term."

The issue thus formed came on for trial at October term, 1883, and resulted in a verdict in favor of Frederick G. Black, the defendant, who then filed his bill of costs amounting to $274.43. The plaintiff now asks to have this bill disallowed and set aside, on the ground that, under all the circumstances of the case, it would be unjust and against equity to compel him to pay it.

The act of 10th April, 1848 (Pur. 643, pl. 48), commonly known as the sheriff's interpleader act, and originally applicable to the counties of Philadelphia and Luzerne, but subsequently extended throughout the commonwealth, after providing the method in which issues are to be framed and tried, proceeds to say that it shall be the duty of the court "to exercise for the adjustment of such claim, and the relief and protection of the sheriff or other officer, all the powers and authorities necessary, and make such rules and decisions as shall appear to be just, under the circumstances of the case; *and the costs of all such proceedings shall be in the discretion of the court.*"

In the case of Mansley *v.* Moore, 1 W. N. C. 268, it was held, by the Court of Common Pleas of Philadelphia, that, "where the execution plaintiff has not been guilty of oppression, it would be a hardship to compel him to pay costs." In Bank *v.* Emerson, 7 W. N. C. 392, the court announces the same doctrine in the following language: "Costs against an unsuccessful defendant in a sheriff's interpleader, under the act of 1848, are not of course, but are in the discretion of the court." The rule which we have adopted is to allow costs to a successful claimant where it is apparent that the defendant in the issue, the plaintiff in the execution, has proceeded upon insufficient grounds—where he has caused the goods to be levied on, and persisted in the seizure under circumstances which afforded no adequate presumption that the title was in the defendant—where his conduct has been

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characterized by oppression or indifference to the rights of third persons. Where, on the contrary, the facts developed on the trial show that the creditor had good reason to believe that the goods were the goods of the defendant, in the execution, as, for example, when they are found in his possession, under circumstances which give rise to a presumption of ownership, costs are not awarded against the defendant. We refer, also, to the case of Dewees *v* Evans, 7 W. N. C. 573.

It would seem clear from the language of the statute, as well as from the adjudicated cases to which we have referred, that the costs in interpleader cases, and in other feigned issues, do not necessarily, and of course, follow the judgment as in other civil actions, but that they are within the control of the court, who are to exercise a sound discretion according to the circumstances.

In the present case, the fund in dispute was in the hands of third parties, who were made garnishees. These garnishees state, under oath, that, up to the time of the service of the attachment, they supposed and believed that this money belonged to G. M. Black. And, upon the trial of the case in court, it was shown in behalf of the plaintiff that G. M. Black had, at various times, and to various parties, claimed to have been the real lessee of the premises upon which the produce in question was grown, and that to one person he had said that the lease was made in his son's name, for the reason that he himself could hold no property in his own name. It was also proved that to one witness he had stated that the particular sum of money in controversy belonged and should be paid to, himself. These facts, and many others to the same effect, were sworn to by the witnesses for the plaintiff; and while they were controverted and denied by the defendant and his witnesses, they are recalled now to show, that the plaintiff was not without good reasons for supposing that the money upon which he laid his attachment belonged to G. M. Black, whose creditor he was.

But while we are disposed to agree that the plaintiff has done nothing which was oppressive or unreasonable, we must not forget that the defendant had the verdict. The jury have found that the fund in court belonged not to G. M. Black, but to his son, Frederick G. Black, the claimant. To relieve the unsuc-

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cessful party from the payment of the costs, because there was probable cause for believing, as he did, that this money was the property of his debtor, and to put them upon the successful party, whose theory of the case has been adopted and approved by the verdict of the jury, would seem to be anomalous and arbitrary.

The true view of the case would seem to be this: The issue was directed by the court, for the purpose of ascertaining the real ownership of the money in the hands of the garnishees. The witnesses who were sworn were called for the purpose of affording the necessary information on this question. A comprehensive view of all the testimony results in the conviction that, while the plaintiff had abundant reason for believing that the fund was the property of his debtor, it was, in point of fact, as legally ascertained by the jury, the money of another. Under these circumstances, it seems to us equitable that the costs and expenses should not be borne exclusively by either party, but should be divided equally between them. It is therefore ordered that one-half the costs, including the witness fees on both sides, be paid by the plaintiff, and that the other half thereof be paid by the defendant, and the rule is discharged.

W. H. McCartney, for plaintiff.

John Lynch and J. T. Lenahan, for defendants.

There is not much straw on a desert, and the camel has little to fear from the last one that is to break his back.

The style of some of the old reporters is admirable. Clayton reports this case: "Trespass. Plaintiff declares that the defendant did break his close and eat his grass, etc., *cum averiis suis*, to wit: oxen, sheep, hogs, avibus, anglice turkies. And the judge did hold that turkies are not comprised within the general word 'averia,' which is an old law word, and those fowls came but lately into England: and upon this it was directed to sever the damages; for otherwise, if the damages shall be joyntly given, and it be ill for this of the turkies, for the reason abovesaid, it will overthrow all the verdict."

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SHERIFF'S SALES.

Abstract of property to be sold by J. S. Oberrender, Sheriff of Luzerne county, on Saturday, March 8th, A. D. 1884, at 10 o'clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are numbered, to wit:

1

Suit of Patrick Reiley v. Edwan More.

Lenahan, Att'y.

All that piece of land in the township of Hanover, beginning at a corner on the west side of South street laid out in a plan of lots on land laid out and owned by Elizabeth Kilver, and where such streets cross each other, thence in a westerly direction along the north side of said South street 50 feet to point or corner, thence in a northerly direction 119 feet be the same more or less to the line of land sold by James Ward and at a point from said James Ward's line to Spring street 50 feet, and from said point or corner on the line of James Ward and Spring street 119 feet to the place of beginning; in all containing 5950 superficial feet; all improved, having thereon one frame dwelling house and outbuildings.

2

Suit of the Hazleton Building, Loan and Trust Association v. Michael Ryon and Mary Ryon, his wife.

Troutman, Att'y.

A lot of ground on the west side of Wyoming street, in the borough of Hazleton, being lot marked No. 1 in square 86, commencing at the northwest corner of Wyoming and Oak streets, containing in front on Wyoming street 30 feet, and extending of that breadth in length and depth westward along the north side of Oak street 190 feet to a 20 feet wide street; all improved, and having erected thereon a double 2½-story frame dwelling with stone basement, frame outkitchen, frame coal house, stable and other frame outbuildings.

7-9

ORPHANS' COURT SALE.

Estate of Jesse Hart, deceased. By virtue of an order of the Orphans' Court, there will be exposed to public sale, on Tuesday, March 4, 1884, at 2 o'clock P. M., on the premises in Black Creek township, the following lots of land: The first thereof, in Black Creek township, beginning at a post, thence along line of Mahoney street 6 8-10 perches to a post, thence along land of William Wolf 12 6-10 perches to the middle of Black Creek, thence along middle of Black Creek 10 8-10 perches, thence along land of Elias Smith 11 1-10 perches to the place of beginning; containing 102 perches, strict measure; reserving and excepting certain water rights. Also, one other lot of land in said Black Creek township, beginning in the middle of Black Creek, thence by land of Edward Hart 12 6-10 perches to a post, thence by line of Mahoney street 8 6-10 perches to a post, thence by land of William and Ann Wolf 12 6-10 perches to the middle of Black Creek, thence by line of Elias Smith in the middle of Black Creek 8 6-10 perches to the place of beginning; containing 106¾ perches; reserving and excepting certain water rights; all improved, with small dwelling houses thereon.

TERMS OF SALE.—One-third cash on day of sale, balance on confirmation of sale.

JOHN HART,
Administrator.

A. R. BRUNDAGE,
Attorney.

6-8

ORPHANS' COURT SALE.

Estate of Elizabeth Bulkeley, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, in the city of Wilkes-Barre, on Tuesday, March 11, 1884, at 10 o'clock A. M., the following piece of real estate, in the fourth ward of the city of Wilkes-Barre, beginning at a point on Union street, between Franklin and River streets, at a corner of land the property of Joseph Stickney, thence along Union Street 45 feet to a corner of land the property of J. M. Crane, thence at right angles to said street 140 feet more or less to the line of the North Branch canal, thence along the said line of the North Branch canal 45 feet to the line of Stickney's land, thence 140 feet more or less to the place of beginning; improved, with one large 2½-story dwelling house, also, a barn and outbuildings.

TERMS OF SALE.—One-fourth of the purchase money on day of sale, one-fourth on confirmation absolute and delivery of the deed; the balance to be secured by bond and mortgage on the premises as follows: the sum of $833.34 to remain until after the death of Mrs. Fannie Pierce, interest thereon to be paid semi-annually to the Executor for said Fannie Pierce, and the balance of one-half to be paid, with interest, one year thereafter date.

J. E. BULKELEY,
Executor.

S. J. STRAUSS,
Attorney.

6-8

ORPHANS' COURT SALE.

Estate of David Benscoter, deceased. In partition. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Mansion House, late of the decedent, in Union township, on Thursday, March 13, 1884, at 10 o'clock A. M., the following pieces of land:

No. 1. The Homestead Farm, situate in the township of Union aforesaid, bounded on the north by lands of William Harned, on the east by lands of Abram Wheeler and James Benscoter, on the south by lands of William H. Masters, Jasper Winans and Simon Scott, and on the west by lands of Nathan Baer and Peter Masters; containing 125 acres of land more or less, being purpart No. 1 in said partition; 80 acres improved, balance in timber. There is also upon said farm 1 two-story frame dwelling house, 2 barns, 3 orchards, 1 wagon shed, 1 cow shed, outbuildings and other improvements. Three miles from Shickshinny.

No. 2. Situate in said township of Union, one mile from Shickshinny, bounded on the north by lands of Ephraim Gregory, on the east by lands in the warrantee name of James McNeal, on the south by lands of John Baer, Martha Kester and J. S. Koons, and on the west by lands of Samuel Masters; containing 50 acres of land more or less, being purpart No. 2 in said partition; 15 acres improved, upon which is a 1½-story frame dwelling house about 18x26, 1 bank barn, 1 stable, outbuildings and other improvements.

No. 3. Also, another lot of land in the borough of Shickshinny, bounded on the north by lot of Peter Daum, on the east by Union street, on the south by land of B. D. Koons, and on the west by land of Peter Daum, being a lot 50 feet front and rear by 150 feet deep; improved, with 1½-story frame house, and outbuildings.

TERMS OF SALE.—The amount to be set apart to secure the widow's (one-third less expenses) interest to be and remain a lien upon the premises, the interest to be paid semi-annually during her life, the principal at her death; 10 per cent. at day of sale, 40 per cent. on confirmation; the balance, with interest from the time of confirmation, in one year from the day of confirmation, to be secured by bond and mortgage.

W. J. BENSCOTER,
Administrator and Trustee.

Q. A. GATES,
Attorney.

7-9

ORPHANS' COURT SALE.

Estate of Thomas Seybert, deceased. In partition. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at public vendue or outcry, on the premises in Salem township, on Wednesday, the 12th day of March, 1884, at 2 o'clock P. M., the following piece of land in Salem township, Luzerne county, Pennsylvania, beginning at a point, at low water mark, on the bank of the Susquehanna river, at a corner of lands now or late of Franklin Stewart; thence along the said river, north 32½ degrees west, 40 perches to a corner; thence along the said river, north 10 degrees west, 36 perches to a corner; thence along said river, 6 degrees east, 46 2-10 perches to a corner; thence by same, north 1 degree 15 minutes east, 100 perches to a corner; thence along line of land of Christian Smithers, north 85½ degrees east, 48 perches to a stone; thence along land of C. Smithers, south 1 degree 47 minutes west, 39 perches to a stone corner; thence along other land of said

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Smithers, north 83 degrees 13 minutes east, 178 perches to a stone corner; thence along line of lot No. 44, now or late of A. Jameson, south 3 degrees west, 137 perches to a stone; thence by land of A. Jameson estate, south 1 degree 17 minutes west, 22 perches to a stone corner; thence by land of Frank and Lee Stewart, south 83 degrees west, 146 perches to a stone corner; thence north 29 degrees west, 15——to a stone corner; thence south 83 degrees west, 11 perches to a stone corner; thence south 29 degrees east, 15 perches to a stone corner; thence south 64 degrees 27 minutes west, 56 perches to place of beginning; containing 234 acres, 140 perches, more or less, on which are erected a brick 2-story dwelling house, stable and outbuildings.

TERMS OF SALE.—Five hundred dollars ($500) cash on day of sale; balance of one-third bid on confirmation of sale and delivery of deed; one-half of the balance in two semi-annual payments, payable six and twelve months from date of confirmation of sale, with interest from confirmation; the remaining one-third to remain a lien on the premises, to secure the dower interest of the widow of decendent, the amount of such dower interest to be hereafter adjusted by the auditor of the fund realized from said sale; any balance of purchase money appearing to be due after securing widow's dower interest to be paid on report of auditor or as the court may hereafter indicate.

BENJAMIN EVANS,
C. B. JACKSON, Trustee.
Attorney. 7-9

ORPHANS' COURT SALE.

In Re Estate of John Fritz, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, at Wilkes-Barre, on Wednesday, the 20th day of February, A. D. 1884, at two o'clock P. M., the following real estate, namely: All the coal underlying two pieces of land, bounded and described as follows: the first one situated in Wilkes-Barre township and Hanover township, county of Luzerne, and state of Pennsylvania, beginning at a corner of the main road leading from Wilkes-Barre to Hanover, adjoining lands of Sarah Bennett and J. W. Horton; thence along the said road, south 58 degrees 30 minutes west, 36 8-10 perches to the center of Solomon's creek; thence down the same in the center thereof, north 12 degrees 30 minutes west, 13 perches north, 47 degrees 15 minutes east, 2 perches; thence north 63 degrees east, 12 perches north, 70 degrees east, 6-10 perches to a corner in line of Sarah Bennett and J. W. Horton; thence south 48 degrees 30 minutes east, 12 4-10 perches to the said Hanover road, the place of beginning; containing 2 acres and 103 8-10 of a perch more or less. The second.—All the coal underlying another piece of land, beginning at a corner at the road leading from the Hanover road to the River road; thence along land of Milan Barney and George Shannon, north 58 degrees 36 minutes east, 17 6-10 perches; thence south 48½ degrees east, 6 perches; thence south 58 degrees 30 minutes west, 17 6-10 perches to the place of beginning; containing 101 7-10 perches of land. Together with the right to mine and remove the said coal, without, however, doing any injury to the surface.

TERMS OF SALE.—$200 cash down, and the balance, with interest thereon, on the day of confirmation of the sale.

ANTHONY VOGT,
GUSTAV HAHN, Administrator.
Attorney. 5-7

ORPHANS' COURT SALE.

In Re Estate of Barney Hunsinger, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, on Saturday, the 1st day of March, A. D. 1884, at one o'clock P. M., a certain piece of land situated in the township of Black Creek, county of Luzerne, and state of Pennsylvania, bounded and described as follows: beginning at a stone corner in the public road leading from Seybertsville to Nescopeck Gap in the line of lands of Amos McNeal; thence along said public road and lands of Thomas Saeger, south 89 degrees west, 71 8-10 perches; thence by the same lands and along the same road, north 73 degrees west, 18 7-10 perches to a stone in the cross roads; thence by lands of Jacob Wright on another public road, south 19 degrees west, 15 8-10 perches to a stone in said road; thence by lands of the estate of Philip Hess, deceased, south 57½ degrees east, 36 perches to a pitch pine; thence by the same, south 2 degrees east, 60 perches to a post; thence by lands of the same, south 82½ degrees east, 33 4-10 perches to a stone in Nescopeck creek; thence by lands of the same and up said creek the two following courses and distances, south 93 degrees east, 28 perches, and south 78 degrees east, 13 perches on the creek; thence by lands of the said Amos McNeal, north 7½ degrees west, 115 perches to the place of beginning; containing 46 acres and 150 perches of land more or less; with a 1½-story log house and barn and stable and other outbuildings thereon. The land is nearly all clear, with a 1½-story frame house and outbuildings thereon. There is also a young orchard of apple trees and other fruit.

TERMS OF SALE.—Ten per cent. of one-third of the purchase money to be paid on the day of the sale; the remainder of the one-third, after deducting the said ten per cent., to be paid on confirmation of the sale; another one-third in one year from the day of the sale; and the remaining one-third or so much thereof as may amount to the dower of the widow, payable upon the death of the widow. Deferred payments to be secured by bond and mortgage. Interest to be paid on all unpaid purchase money from the date of the sale.

SAMUEL BENNER,
GUSTAV HAHN, Administrator.
Attorney. 5-7

ESTATE OF FREDERICK BACH, DEC'D.

To Frederick Bach, Jr. You are hereby notified that the Orphan's Court of Luzerne County, Pa., upon the petition of C. F. Teufel, a creditor of the Estate of Frederick Bach, deceased, has awarded an alias citation to you to be and appear before the said Court, at Wilkes-Barre, in said county, on the last Saturday of February, 1884, at 10 o'clock A. M., to show cause why you should not be removed as executor of the estate of said deceased, and why letters testamentary granted to you in said estate should not be revoked, on the ground of your having removed from this commonwealth, and have had no known place of residence therein for more than one year.

S. M. RHONE,
5-7 Attorney for C. F. Teufel.

ESTATES TO BE AUDITED BY THE Orphans' Court of Luzerne county. Notice is hereby given that accounts have been filed and confirmed absolutely by the court in the following estates:

1. Ella J. Solly; Wm. J. Solly, Administrator; 4th March, 1884.

2. William Briggs; J. F. Briggs, Trustee in partition; 4th March, 1884.

3. Sarah H. Schloyer; Washington Houck, Executor; 5th March, 1884.

The accounts enumerated and designated in the above list will be audited by the court, in the Court House, in the Orphans' Court room, during the session of court on the days set forth opposite the name of each estate, at which time all persons interested shall attend, if they see fit, and present their claims against said estate, or forever thereafter be debarred from coming upon said fund.

JOSEPH HENDLER,
7-9 Clerk O. C.

ESTATE OF R. J. WISNER, LATE OF WEST Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

THEODORE STRONG,
CHARLES H. FOSTER,
J. A. WISNER,
G. S. FERRIS, Pittston, Pa.
Attorney. 5-10

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ESTATE OF GEORGE COREY, LATE OF West Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

E. A. CORAY,
W. H. CORAY,

E. S. OSBORNE,
Attorney. 2-7

ESTATE OF JAMES BOYD, JR., LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. G. WEAVER,
JAMES BOYD, SR.,
J. L. LENAHAN, Wilkes-Barre, Pa.
Attorney. 5-10

ESTATE OF DELPHINE E. VER PLANK, late of West Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SAMUEL P. FENN,
G. S. FERRIS, Pittston, Pa.
Attorney. 5-10

ESTATE OF JONAS LONG, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

PAULINA LONG,
S. J. STRAUSS. Wilkes-Barre, Pa.
Attorney. 6-11

ESTATE OF FRANCIS R. S. WINTERS, LATE of Franklin township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WM. H. BODLE,
2-7 Orange, Pa.

ESTATE OF JOHN J. HUMMELL, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARGARET A. HUMMELL,
A. RICKETTS, Wilkes-Barre, Pa.
Attorney. 7-12

ESTATE OF ISAAC KREIDLER, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE KREIDLER,
4-9 Wilkes-Barre, Pa.

ESTATE OF SUSAN WOLF, LATE OF UNION township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. H. WOLF,
1-6 Lehman, Pa.

ESTATE OF ARAMINDA CRAWFORD, LATE of Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

B. G. CRAWFORD,
B. M. ESPY, Wilkes-Barre, Pa.
Attorney. 6-11

ESTATE OF MILES SWEENEY, LATE OF Jenkins township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE SWEENEY,
6-11 Pittston, Pa.

ESTATE OF HENRY KROPP, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH KROPP,
L. D. SHOEMAKER, Wilkes-Barre, Pa.
Attorney. 5-10

ESTATE OF JAMES MOYER, LATE OF Hollenback township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ABRAHAM MOYER,
AARON MOYER,
A. R. BRUNDAGE, Hobbie, Pa.
Attorney. 4-9

ESTATE OF MARY ANN DAVIS, LATE OF Wilkes-Barre, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ABRAM NESBIT,
GEORGE K. POWELL, Kingston, Pa.
Attorney. 3-8

ESTATE OF MARGARETTA RITTERSBACHER, late of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

FREDERICK G. SMITH,
3-8 Wilkes-Barre, Pa.

ESTATE OF JOHN L. JONES, LATE OF Freeland, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WILLIAM L. JONES,
JOHN D. HAYES, Freeland, Pa.
Attorney. 3-8

ESTATE OF FERDINAND BRUNE, LATE of West Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH D. BRUNE,
GEO. S. FERRIS, West Pittston, Pa.
Attorney. 6-11

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ESTATE OF JAMES GIVENS, LATE OF Hazleton, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BRIDGET GIVENS,
4-9 Hazleton, Pa.

ESTATE OF WILLIAM STONE, LATE OF Hazle township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES STONE,
4-9 Stockton, Pa.

ESTATE OF JOSEPH HAWK, LATE OF Sugarloaf township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEO. W. DRUM,
A. R. BRUNDAGE, Conyngham, Pa.
Attorney. 7-12

ESTATE OF L. H. STEELE, LATE OF PLYmouth, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

S. A. STEELE,
7-12 Plymouth, Pa.

ESTATE OF JACOB OCKSENREIDER, LATE of Sugarloaf township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

REUBEN E. OCKSENREIDER,
7-12 Deringer, Pa.

ESTATE OF LEWIS FREDERICK, LATE OF Sugarloaf township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

RACHEL FREDERICK,
7-12 Conyngham, Pa.

NOTICE IS HEREBY GIVEN, THAT THE final hearing upon the application of William Moran for discharge under the Insolvent Laws will be held in the Court of Common Pleas of Luzerne county on Thursday, March 13, 1884, at 9 o'clock A. M.

WILLIAM MORAN.
7-9

AUDITOR'S NOUICE.

The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county, to report distribution of a fund of $1403.33, paid into court by decree of 19th October, 1883, either to the separate estates of A. D. King and Edward Howell, deceased, or to the representatives or creditors of said estates, or to the creditors of the late firm of Howell & King, as their claims upon the same may be established, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, Wilkes-Barre, on Saturday, March 8, 1884, at 10 o'clock A.M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

THOS. H. ATHERTON,
7-10 Auditor.

AUDITOR'S NOTICE.

The undersigned, an auditor, appointed by the Court of Common Pleas of Luzerne county to distribute the fund arising from the Sheriff's sale of the personal property and real estate of James Garrahan and Thos. Garrahan, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, in Wilkes-Barre, Pa., on Monday, February 25th, 1884, at 10 o'clock A. M., at which time and place all parties interested are required to appear and present their claims, or else be debarred from coming in on said fund.

JOHN S. HARDING,
4-7 Auditor.

AUDITOR'S NOTICE.

The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county to pass upon the exceptions to the account of Andrew Bryden, Trustee of The Pittston Knitting Company, Limited, and make distribution of the fund in the hands of the Trustee, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, in Wilkes-Barre, Pa., on Thursday, the 28th day of February, 1884, at 10 o'clock A. M., at which time and place all parties interested are required to appear and present their objections and claims, or be debarred from coming in on said fund.

WILLIAM S. McLEAN,
5-8 Auditor.

IN THE COURT OF QUARTER SESSIONS of Luzerne county. No. 148, December sessions, 1883. In Re Additional Election District in Kingston township. Notice is hereby given, that the report of the Commissioners in the above stated case has been filed with the Clerk of the Court of Quarter Sessions, and was confirmed nisi by the court on the 4th day of February, 1884, and that said report will be confirmed absolutely by the court unless exceptions thereto be filed not later than the third day of the next term of said court.

L. K. STRENG,
6-8 Clerk Q. S.

WIDOWS' APPRAISEMENTS.

Notice is hereby given to all persons concerned, that widows' appraisements in the following estates have been approved nisi by the Orphans' Court of Luzerne county, and, unless exceptions are filed, will be presented for final approval on Monday, the 3d day of March, 1884:

Jesse Hart, Henry Kropp, William McLaughlin, Samuel F. Shay, Anthony Welsh, John L. Davis, L. H. Steele, John S. Cosgrove, and Martin Mitchell, deceased.

JOSEPH HENDLER,
7-9 Clerk O. C.

NOTICE IS HEREBY GIVEN, THAT, IN accordance with the resolution of the Board of Directors, there will be a meeting of the Stockholders of the Glen Summit Hotel and Land Company held at the office of the Lehigh Valley Coal Company, Wilkes-Barre, Pa., on Wednesday, 23d April, 1884, at 2 o'clock P. M., to consider the question of issuing bonds and mortgage upon the franchises and property of the company for the purpose of completing the hotel, furnishing the same, etc., and for such other business as may come before the meeting.

By order of the Board of Directors.

ANDREW H. McCLINTOCK,
7-16 Secretary.

CHAS. D. FOSTER,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

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LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 250, May term, 1883. Libel in divorce a vinculo matrimonii. F. S. Hudnut, by her next friend, etc., v. S. A. Hudnut. The alias subpoena in the above case having been returned, "That the said S. A. Hudnut cannot be found in Luzerne county." You, the said S. A. Hudnut, respondent, are required to appear on Monday, March 3, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.

G. R. BEDFORD,
Attorney. 6-9

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county, No. 113, May term, 1883. Libel in divorce a vinculo matrimonii. Mary Jane Skipper, by her next friend, Mary Moharter, v. Elijah Skipper. The alias subpoena in the above case having been returned, "That the said Elijah Skipper cannot be found in Luzerne county." You, the said Elijah Skipper, respondent, are required to appear on Monday, March 3, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.

G. H. R. PLUMB,
Attorney. 5-8

LUZERNE COUNTY, ss;

In the Court of Common Pleas of said county. No. 630, October term, 1883. Libel in divorce a vinculo matrimonii. Catharine Jones, by her next friend, John Gaynor, v. John F. Jones. The alias subpoena in the above case having been returned, "That the said John F. Jones cannot be found in Luzerne county." You, the said John F. Jones, respondent, are required to appear on Monday, March 3, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.

J. T. LENAHAN,
Attorney. 5-8

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 229, November term, 1883. Libel in divorce a vinculo matrimonii. James A. Fleming v. Mary Fleming. The alias subpoena in the above case having been returned, "That the said Mary Fleming cannot be found in Luzerne county." You, the said Mary Fleming, respondent, are required to appear on Monday, May 12, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.

B. McMANUS,
Attorney 7-10

WILLIAM S. McLEAN,

ATTORNEY AT LAW,

WILKES-PARRE, PA.

W. S. PARSONS,

ALDERMAN,

WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, FEBRUARY 22, 1884. No. 8.

Court of Common Pleas of Luzerne County.

T. P. MORGAN *v.* E. C. TRESCOTT.

Where exception is taken to the bail entered for an appeal from the judgment of a justice of the peace, before the appeal has been actually entered in the Common Pleas; the proper practice is for the justice to grant a rule on the appellant, to justify, or enter new bail.

Motion to strike off appeal.

The opinion of the court was delivered February 11, 1884, by

WOODWARD, J.—It seems from the papers before us, that judgment was entered by the justice in this case, on the 11th June, 1883, in favor of the plaintiff for the sum of $43.55. On the 19th June, 1883, an appeal was entered by the defendant, and bail was given in the usual form; and on the 20th June, 1883, a transcript was made out by the justice. It does not appear, however, when this transcript showing the appeal was delivered to the defendant. It was filed in the prothonotary's office on 27th September, 1883.

On the 11th October, 1883, the plaintiff filed in the prothonotary's office a transcript showing the following proceedings before the justice: "June 21st inst., the plaintiff appears and takes ex-exceptions to the appeal, the bail or bondsman not being the owner of any real estate in Luzerne county. After the plaintiff excepted to the bail, the defendant was notified that the bail was excepted to, and was held by the justice to be not good, and that he must put in new bail, and that he neglected to do so. Consequently the appeal was stricken off."

The proper practice in cases like this, where the appeal has not yet been actually entered in the Common Pleas, is for the

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justice to grant a rule on the appellant to justify his bail, or enter new bail. This may have been what the justice in this case intended to do, although his statement of the facts is by no means clear. See Cummins *v.* Forsman, 6 Barr. 195.

We will give the defendant thirty days within which to perfect his appeal. If this is done, we will then discharge the rule to strike off the appeal.

E. A. Lynch, for defendant.

A. Ricketts, for plaintiff.

Court of Quarter Sessions of Luzerne County.

COMMONWEALTH OF PENNSYLVANIA *v.* CONRAD SCHAUB.

1. It is a general rule in criminal pleading, that two distinct offences cannot be charged in one, and the same count, of the indictment.

2. The act of 26th February, 1855 (Pur. p. 946, pl. 38), so far as it was intended to apply to, and forbid the sale of intoxicating liquors on Sunday, was repealed by the act of 12th April, 1875 (Pur. 2031, pl. 16).

3. An indictment which charges in the same count, the offence of selling liquor on Sunday, and also the offence of allowing liquor to be drank "on or within the premises," on Sunday, is bad for duplicity, and will be quashed.

Motion to quash indictment.

The opinion of the court was delivered February 11, 1884, by

WOODWARD, J.—The indictment in this case charges that the defendant did, on the twenty-first day of October, A. D. 1883, the said twenty-first day of October being then and there the first day of the week, commonly called Sunday, "sell, trade and barter in vinous, spirituous, malt and brewed liquors, the same being wine, brandy, gin, whiskey, rum, porter, ale and beer, and did then and there sell and cause to be sold to John G. Davis and Philip Price, and knowingly allowed and permitted vinous, spirituous, malt and brewed liquors to be drank on and within the premises and house occupied by the said Conrad Schaub, the same being wine, brandy, etc., * * * contrary to the form of the Act of Assembly in such case made and provided, etc."

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The act of 26th February, 1855 (Pur. p. 946, pl. 38), provides that "it shall not be lawful for any person to sell, trade or barter in any spirituous or malt liquors, wine or cider, on the first day of the week, commonly called Sunday, or for the keeper or keepers of any hotel, inn, tavern, ale house, beer house, or other public house or place, knowingly to allow or permit any spirituous or malt liquors, wine or cider, to be drank on or within the premises or house occupied or kept by such keeper or keepers, his or their agents or servants, on the said first day of the week."

The act of 12th April, 1875 (Pur. 2031, pl. 16), is in these words: "It shall not be lawful for any person, with or without license, to sell to any person any intoxicating drink, on any day on which elections are now or hereafter may be required to be held, nor on Sunday, nor at any time to a minor, or to a person visibly affected by intoxicating drinks."

The penalty provided in the act of 1855 is fifty dollars for each and every violation of the section which prohibits the sale of liquors on Sunday.

The penalty under the act of 12th April, 1875, for a violation of any of its provisions, is "a fine of not less than two hundred, nor more than five hundred dollars, with the costs of prosecution, and to stand committed until the sentence of the court is complied with, not exceeding ninety days, etc."

It is a noticeable fact, that, while the act of 1875 makes selling liquor on Sunday a serious offence, and materially increases the penalty and punishment, it entirely omits the provision contained in the act of 1855, relative to allowing liquor to be drank "on or within the premises," on "the said first day of the week."

The indictment before us contains but a single count, and seeks to convict the defendant, not of one offence, but of two offences, which, under the statutes to which we have called attention, are entirely distinct and independent of each other, and the penalty and punishment of which are entirely diverse. Can such an indictment be sustained?

It seems to us that the present case falls within the general rule of criminal pleading, that two distinct offences cannot be charged in one and the same count. And that the offences charged are distinct, is sufficiently clear. The familiar doctrine

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that a later statute, in regard to the same subject matter, repeals a former statute when repugnant and irreconcilable, even without repealing or negative words, is so firmly fixed and grounded in the law, and so abundantly illustrated in almost every volume of our reports, as to need nothing beyond its statement. The act of 26th February, 1855, so far forth as it was intended to apply to the sale of intoxicating liquors on Sunday, was repealed and superceded by the act of 12th April, 1875. This is apparent, not only from the fact that the act of 1875 is later in date, and contemplates a new classification of dealers in liquor, and of the rates to be paid for license, but also from the change in the penalties imposed for violations of the law. These changes are substantial and radical. Instead of a fine of fifty dollars for each offence, the minimum penalty is fixed at two hundred dollars, with a provision for a greatly increased punishment, upon a second or subsequent conviction.

The indictment before us was evidently framed under the act of 1855. It charges in one count the offence of selling liquor on Sunday, *and* also, the other offence of knowingly allowing liquor to be drank upon the premises. The copulative conjunction "and" is used in the indictment, while the statute employs the disjunctive conjunction "or," so that, even under the act of 1875, it would seem that the offences were intended to be twofold and distinct, rather than one, or parts of one offence. However this may be, it still remains true, that the indictment is based upon a statute a portion of which at least (and that the material portion in this inquiry) has been repealed, and is therefore obsolete. If it be contended that the other portion of the act of 1855, relative to allowing liquor to be drank upon the premises, is still in force, then the reply must be, that the offences laid in the indictment are twofold and distinct, and not such as can be charged in a single count. In either case, the indictment would be bad.

The motion to quash the indictment is granted.

John McGahren, for commonwealth.

John D. Hayes, for defendant.

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SHERIFF'S SALES.

Abstract of property to be sold by J. S. Oberrender, Sheriff of Luzerne county, on Saturday, March 8th, A. D. 1884, at 10 o'clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are numbered, to wit:

1

Suit of Patrick Reiley v. Edwan More.

Lenahan, Att'y.

All that piece of land in the township of Hanover, beginning at a corner on the west side of South street laid out in a plan of lots on land laid out and owned by Elizabeth Kilver, and where such streets cross each other, thence in a westerly direction along the north side of said South street 50 feet to point or corner, thence in a northerly direction 119 feet be the same more or less to the line of land sold by James Ward and at a point from said James Ward's line to Spring street 50 feet, and from said point or corner on the line of James Ward and Spring street 119 feet to the place of beginning; in all containing 5950 superficial feet; all improved, having thereon one frame dwelling house and outbuildings.

2

Suit of the Hazleton Building, Loan and Trust Association v. Michael Ryon and Mary Ryon, his wife.

Troutman, Att'y.

A lot of ground on the west side of Wyoming street, in the borough of Hazleton, being lot marked No. 1 in square 86, commencing at the northwest corner of Wyoming and Oak streets, containing in front on Wyoming street 30 feet, and extending of that breadth in length and depth westward along the north side of Oak street 190 feet to a 20 feet wide street; all improved, and having erected thereon a double 2½-story frame dwelling with stone basement, frame outkitchen, frame coal house, stable and other frame outbuildings.

7-9

ORPHANS' COURT SALE.

Estate of Jesse Hart, deceased. By virtue of an order of the Orphans' Court, there will be exposed to public sale, on Tuesday, March 4, 1884, at 2 o'clock P. M., on the premises in Black Creek township, the following lots of land: The first thereof, in Black Creek township, beginning at a post, thence along line of Mahoney street 6 8-10 perches to a post, thence along land of William Wolf 12 6-10 perches to the middle of Black Creek, thence along middle of Black Creek 10 8-10 perches, thence along land of Elias Smith 11 1-10 perches to the place of beginning; containing 102 perches, strict measure; reserving and excepting certain water rights. Also, one other lot of land in said Black Creek township, beginning in the middle of Black Creek, thence by land of Edward Hart 12 6-10 perches to a post, thence by line of Mahoney street 8 6-10 perches to a post, thence by land of William and Ann Wolf 12 6-10 perches to the middle of Black Creek, thence by line of Elias Smith in the middle of Black Creek 8 6-10 perches to the place of beginning; containing 106⅔ perches; reserving and excepting certain water rights; all improved, with small dwelling houses thereon.

TERMS OF SALE.—One-third cash on day of sale, balance on confirmation of sale.

JOHN HART,
A. R. BRUNDAGE, Administrator.
Attorney. 6-8

ORPHANS' COURT SALE.

Estate of Elizabeth Bulkeley, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, in the city of Wilkes-Barre, on Tuesday, March 11, 1884, at 10 o'clock A. M., the following piece of real estate, in the fourth ward of the city of Wilkes-Barre, beginning at a point on Union street, between Franklin and River streets, at a corner of land the property of Joseph Stickney, thence along Union Street 45 feet to a corner of land the property of J. M. Crane, thence at right angles to said street 140 feet more or less to the line of the North Branch canal, thence along the said line of the North Branch canal 45 feet to the line of Stickney's land, thence 140 feet more or less to the place of beginning; improved, with one large 2½-story dwelling house, also, a barn and outbuildings.

TERMS OF SALE.—One-fourth of the purchase money on day of sale, one-fourth on confirmation absolute and delivery of the deed; the balance to be secured by bond and mortgage on the premises as follows: the sum of $833.34 to remain until after the death of Mrs. Fannie Pierce, interest thereon to be paid semi-annually to the Executor for said Fannie Pierce, and the balance of one-half to be paid, with interest, one year thereafter date.

J. E. BULKELEY,
S. J. STRAUSS, Executor.
Attorney. 6-8

ORPHANS' COURT SALE.

Estate of David Benscoter, deceased. In partition. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Mansion House, late of the decedent, in Union township, on Thursday, March 13, 1884, at 10 o'clock A. M., the following pieces of land:

No. 1. The Homestead Farm, situate in the township of Union aforesaid, bounded on the north by lands of William Harned, on the east by lands of Abram Wheeler and James Benscoter, on the south by lands of William H. Masters, Jasper Winans and Simon Scott, and on the west by lands of Nathan Baer and Peter Masters; containing 125 acres of land more or less, being purpart No. 1 in said partition; 80 acres improved, balance in timber. There is also upon said farm 1 two-story frame dwelling house, 2 barns, 3 orchards, 1 wagon shed, 1 cow shed, outbuildings and other improvements. Three miles from Shickshinny.

No. 2. Situate in said township of Union, one mile from Shickshinny, bounded on the north by lands of Ephraim Gregory, on the east by lands in the warrantee name of James McNeal, on the south by lands of John Baer, Martha Kester and J. S. Koons, and on the west by lands of Samuel Masters; containing 50 acres of land more or less, being purpart No. 2 in said partition; 15 acres improved, upon which is a 1½-story frame dwelling house about 18x26, 1 bank barn, 1 stable, outbuildings and other improvements.

No. 3. Also, another lot of land in the borough of Shickshinny, bounded on the north by lot of Peter Daum, on the east by Union street, on the south by land of B. D. Koons, and on the west by land of Peter Daum, being a lot 50 feet front and rear by 150 feet deep; improved, with 1½-story frame house, and outbuildings.

TERMS OF SALE.—The amount to be set apart to secure the widow's (one-third less expenses) interest to be and remain a lien upon the premises, the interest to be paid semi-annually during her life, the principal at her death; 10 per cent. at day of sale, 40 per cent. on confirmation; the balance, with interest from the time of confirmation, in one year from the day of confirmation, to be secured by bond and mortgage.

W. J. BENSCOTER,
Q. A. GATES, Administrator and Trustee.
Attorney. 7-9

ORPHANS' COURT SALE.

Estate of Thomas Seybert, deceased. In partition. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at public vendue or outcry, on the premises in Salem township, on Wednesday, the 12th day of March, 1884, at 2 o'clock P. M., the following piece of land in Salem township, Luzerne county, Pennsylvania, beginning at a point, at low water mark, on the bank of the Susquehanna river, at a corner of lands now or late of Franklin Stewart; thence along the said river, north 32½ degrees west, 40 perches to a corner; thence along the said river, north 10 degrees west, 36 perches to a corner; thence along said river, 6 degrees east, 46 2-10 perches to a corner; thence by same, north 1 degree 15 minutes east, 100 perches to a corner; thence along line of land of Christian Smithers, north 85½ degrees east, 48 perches to a stone; thence along land of C. Smithers, south 1 degree 47 minutes west, 39 perches to a stone corner; thence along other land of said

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Smithers, north 83 degrees 13 minutes east, 178 perches to a stone corner; thence along line of lot No. 44, now or late of A. Jameson, south 3 degrees west, 137 perches to a stone; thence by land of A. Jameson estate, south 1 degree 17 minutes west, 22 perches to a stone corner; thence by land of Frank and Lee Stewart, south 83 degrees west, 146 perches to a stone corner; thence north 29 degrees west, 15——to a stone corner; thence south 83 degrees west, 11 perches to a stone corner; thence south 29 degrees east, 15 perches to a stone corner; thence south 64 degrees 27 minutes west, 56 perches to place of beginning; containing 234 acres, 140 perches, more or less, on which are erected a brick 2-story dwelling house, stable and outbuildings.

TERMS OF SALE.—Five hundred dollars ($500) cash on day of sale; balance of one-third bid on confirmation of sale and delivery of deed; one-half of the balance in two semi-annual payments, payable six and twelve months from date of confirmation of sale, with interest from confirmation; the remaining one-third to remain a lien on the premises, to secure the dower interest of the widow of decendent, the amount of such dower interest to be hereafter adjusted by the auditor of the fund realized from said sale; any balance of purchase money appearing to be due after securing widow's dower interest to be paid on report of auditor or as the court may hereafter indicate.

BENJAMIN EVANS,
C. B. JACKSON, Trustee.
Attorney. 7-9

ORPHANS' COURT SALE.

Estate of Mary Culver, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Friday, the 14th day of March, A. D. 1884, at 10 o'clock A. M., the following piece of land, in the township of Ross, bounded on the north by lands of Jacob Elv and Jeremiah Sickler estate, on the east by lands of Henry Long and Hillman Moss, on the south by lands of C. H. Culver, and on the west by lands of Nathan Culver and Warren Hoffman; all improved except about 15 acres in Woodland; containing about 44 acres, together with the appurtenances, a 1½-story frame house, and a small orchard.

TERMS OF SALE.—One-half the purchase money down at the time of sale, balance on confirmation of sale and delivery of deed.

ELISHA CULVER,
DORRANCE & PRICE, Administrator.
Attorneys. 8-10

ORPHANS' COURT SALE.

Estate of William Linden, deceased. By virtue of an order of the Orphans' Court of Luzerne county, to me directed, there will be exposed to public sale by public vendue or outcry, on the premises, in the township of Salem, on Tuesday, March 11, A. D. 1884, at 10 o'clock A. M., all that piece of land in the township of Salem, bounded on the north by public road leading from Berwick to Beach Haven, on the south by extension of Canal street in Berwick, east by lot of Franklin Solt, on the west by lot of Mrs. Reuben Berlin; the lot being 200 feet more or less in depth and 49½ feet more or less in width, on which is erected a 2-story dwelling and outbuildings.

TERMS OF SALE.—$100 down on day of sale, 25 per cent. of balance on confirmation of sale and delivery of deed, balance with interest from confirmation one year from confirmation. Deferred payment to be secured by bond and mortgage on the premises.

F. E. BROCKWAY,
C. B. JACKSON, Administrator.
Attorney. 8-10

ORPHANS' COURT SALE.

Estate of Joseph Hawk, deceased. In pursuance of an order of the Orphans' Court of Luzerne county, the undersigned will sell, at public sale, on the premises, in the village of Conyngham, on Saturday, the 22d day of March, A. D. 1884, at 2 o'clock P. M., all that lot of land in the village of Conyngham, Sugarloaf township, on the west side of the Lehigh & Susquehanna road, No. 15 on the original town plot of the said village of Conyngham, bounded on the south by lot of Amos Shupp, north by land of Catherine Cumins, west by land of Elizabeth Hutton, east by the Lehigh & Susquehanna turnpike; containing about 3 acres of land, on which is erected a 2-story frame dwelling house, stable, barn and other outbuildings, fruit orchard, etc.

TERMS OF SALE.—One-third on day of sale, one-third on confirmation of sale, and balance, with interest from confirmation of sale, within six months from day of sale. Deferred payments to be secured by bond and mortgage.

GEORGE W. DRUM,
A. R. BRUNDAGE, Administrator.
Attorney. 8-10

ORPHANS' COURT SALE.

Estate of Solomon Yost, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, in the township of Sugarloaf, in said county, on Tuesday, March 18, 1884, at 2 o'clock P M., all that tract of land, in the township of Sugarloaf, beginning at the northerly corner of land of Henry Lawn on line of land of Tobias Schobert, thence 80 8-10 perches to a post and stones, thence 26 4-10 perches to a post and stones on line of land of Drumheller and Raedler; thence by said last named line 98 5-10 perches to a post and stones, a corner also of land of Charles Brown; thence by line of Brown 44 perches to a post corner, being also a corner of Jacob Breithaupt; thence by line of land of Breithaupt 40 perches to a post corner, thence still by line of Jacob Breithaupt 60 perches to a post corner, thence by line still of Jacob Breithaupt 24 perches to a corner of William Walp, thence by line of land of William Walp 61 3-10 perches to a stone corner (the stone being buried) in the southerly side of the public road leading from the Berwick and Hazleton turnpike to Drum's post office, thence along the southerly side or portion of said public road 163 9-10 perches to a stone (buried) in the southerly side of said public road at an angle of said road and on line of Henry Lawn aforesaid, thence by line of land of said Henry Lawn 99 8-10 perches to the place of beginning; containing 133 acres and 119 perches strict measure; about 77 acres thereof improved, with a 1½-story frame dwelling houses thereon, 2 barns, and other outbuildings, and an apple orchard of nearly 4 acres thereon.

TERMS OF SALE.—Ten per cent. of the purchase money to be paid on the striking down of the sale, one-third of the balance on confirmation of the sale, one-third on April 1st, 1885, and the remaining one-third on April 1st, 1886, with interest on the whole unpaid balance from confirmation of the sale. Deferred payments to be secured by bond and mortgage on the property.

STEPHEN TURNBACH,
ALEX. FARNHAM, Administrator.
Attorney. 8-10

ESTATES TO BE AUDITED BY THE Orphans' Court of Luzerne county. Notice is hereby given that accounts have been filed and confirmed absolutely by the court in the following estates:

1. Ella J. Solly; Wm J. Solly, Administrator; 4th March, 1884.

2. William Briggs; J. F. Briggs, Trustee in partition; 4th March, 1884.

3. Sarah H. Schloyer; Washington Houck, Executor; 5th March, 1884.

4. P. M. Goodwin; A. Goodwin, Jr., Executor; 10th March, 1884.

5. Catharine Steger; William Kauffman, Administrator; 11th March, 1884.

The accounts enumerated and designated in the above list will be audited by the court, in the Court House, in the Orphans' Court room, during the session of court on the days set forth opposite the name of each estate, at which time all persons interested shall attend, if they see fit, and present their claims against said estate, or forever thereafter be debarred from coming upon said fund.

JOSEPH HENDLER,
7-10 Clerk O. C.

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ESTATE OF ISAAC KREIDLER, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE KREIDLER,
4-9 Wilkes-Barre, Pa.

ESTATE OF MILES SWEENEY, LATE OF Jenkins township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE SWEENEY,
6-11 Pittston, Pa.

ESTATE OF HENRY KROPP, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH KROPP,
L. D. SHOEMAKER, Wilkes-Barre, Pa.
Attorney. 5-10

ESTATE OF JAMES MOYER, LATE OF Hollenback township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ABRAHAM MOYER,
AARON MOYER,
A. R. BRUNDAGE, Hobbie, Pa.
Attorney. 4-9

ESTATE OF JOHN L. JONES, LATE OF Freeland, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WILLIAM L. JONES,
JOHN D. HAYES, Freeland, Pa.
Attorney. 3-8

ESTATE OF FERDINAND BRUNE, LATE of West Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH D. BRUNE,
GEO. S. FERRIS, West Pittston, Pa.
Attorney. 6-11

ESTATE OF JOSEPH HAWK, LATE OF Sugarloaf township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEO. W. DRUM,
A. R. BRUNDAGE, Conyngham, Pa.
Attorney. 7-12

ESTATE OF MARY ANN DAVIS, LATE OF Wilkes-Barre, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ABRAM NESBIT,
GEORGE K. POWELL, Kingston, Pa.
Attorney. 3-8

ESTATE OF JAMES GIVENS, LATE OF Hazleton, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BRIDGET GIVENS,
4-9 Hazleton, Pa.

ESTATE OF HENRY LAUN, LATE OF Sugarloaf township, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CAROLINE LAUN,
BENNETT & NICHOLS, Seybertsville, Pa.
Attorneys. 8-13

ESTATE OF MARGARETTA RITTERSBACHER, late of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

FREDERICK G. SMITH,
3-8 Wilkes-Barre, Pa.

ESTATE OF WILLIAM STONE, LATE OF Hazle township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES STONE,
4-9 Stockton, Pa.

ESTATE OF L. H. STEELE, LATE OF PLYmouth, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

S. A. STEELE,
7-12 Plymouth, Pa.

ESTATE OF R. J. WISNER, LATE OF WEST Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

THEODORE STRONG,
CHARLES H. FOSTER,
J. A. WISNER,
G. S. FERRIS, Pittston, Pa.
Attorney. 5-10

ESTATE OF JAMES BOYD, JR., LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. G. WEAVER,
JAMES BOYD, SR.,
J. L. LENAHAN, Wilkes-Barre, Pa.
Attorney. 5-10

ESTATE OF DELPHINE E. VER PLANK, late of West Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SAMUEL P. FENN,
G. S. FERRIS, Pittston, Pa.
Attorney. 5-10

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ESTATE OF JONAS LONG, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

PAULINA LONG,
S. J. STRAUSS, Wilkes-Barre, Pa.
Attorney. 6-11

ESTATE OF JOHN J. HUMMELL, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARGARET A. HUMMELL,
A. RICKETTS, Wilkes-Barre, Pa.
Attorney. 7-12

ESTATE OF ARAMINDA CRAWFORD, LATE of Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

B. G. CRAWFORD,
B. M. ESPY, Wilkes-Barre, Pa.
Attorney. 6-11

ESTATE OF HUGH MURRAY, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELIZABETH MURRAY,
8-13 Wilkes-Barre, Pa.

ESTATE OF PATRICK BRADLEY, LATE OF Plymouth township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

J. W. SHELLHAMMER,
W. S. McLEAN, Plymouth, Pa.
Attorney. 8-13

ESTATE OF JACOB OCKSENREIDER, LATE of Sugarloaf township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

REUBEN E. OCKSENREIDER,
7-12 Deringer, Pa.

ESTATE OF LEWIS FREDERICK, LATE OF Sugarloaf township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

RACHEL FREDERICK,
7-12 Conyngham, Pa.

IN THE COURT OF QUARTER SESSIONS of Luzerne county. No. 148, December sessions, 1883. In Re Additional Election District in Kingston township. Notice is hereby given, that the report of the Commissioners in the above stated case has been filed with the Clerk of the Court of Quarter Sessions, and was confirmed nisi by the court on the 4th day of February, 1884, and that said report will be confirmed absolutely by the court unless exceptions thereto be filed not later than the third day of the next term of said court.

L. K. STRENG,
6-8 Clerk Q. S.

IN EQUITY. No. 1, FEBRUARY TERM, 1884. Fritz et al. v. Eustice et al.

Now, 18th February, 1884, upon filing affidavit of John Fritz and upon special motion the court order that said defendant or defendants be notified to be and appear and answer the requirements of said bill on the first Monday of March, A. D. 1884, and that said notice be in accordance with the Act of Assembly in such cases provided, and be published in the meantime in the *Weekly Record of the Times* and the *Luzerne Legal Register* by the court. You, therefore, Charles Fritz, Angeline Carr, *nee* Fritz, William Fritz, John Carr, Thomas Chigwidden, James Chigwidden, *nee* Fritz, and Henry Fritz, are hereby notified that a bill in equity, numbered as aforesaid, has been filed in the Court of Common Pleas of Luzerne county, praying that a commission issue to a Master in Chancery to divide and allot premises which were of Maria Fritz, deceased, of whom you are children and heirs, said premises being situate in Hanover township, said county, that the respective parts thereof may be allotted and conveyed to the parties respectively. That if the said master shall determine that said premises cannot be divided without prejudice to or spoiling the whole, then to value the same and make report thereof to the court. If parties in interest refuse to take the same at the valuation that the court may order, the master to make sale thereof.

You are therefore notified to appear on or before the first Monday of March, A. D. 1884, and comply with the requirements of said bill; and that, if you do not so comply upon the expiration of such specified time, the said plaintiffs will proceed as fully and effectually as if such process had been duly served within the jurisdiction of said court.

G L. HALSEY,
8-9 Solicitor for Plaintiffs.

WIDOWS' APPRAISEMENTS.

Notice is hereby given to all persons concerned, that widows' appraisements in the following estates have been approved nisi by the Orphans' Court of Luzerne county, and, unless exceptions are filed, will be presented for final approval on Monday, the 3d day of March, 1884:

Jesse Hart, Henry Kropp, William McLaughlin, Samuel F Shay, Anthony Welsh, John L. Davis, L. H. Steele, John S. Cosgrove, and Martin Mitchell, deceased.

JOSEPH HENDLER,
7-9 Clerk O. C.

AUDITOR'S NOUICE.

The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county, to report distribution of a fund of $1403.33, paid into court by decree of 19th October, 1883, either to the separate estates of A. D. King and Edward Howell, deceased, or to the representatives or creditors of said estates, or to the creditors of the late firm of Howell & King, as their claims upon the same may be established, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, Wilkes-Barre, on Saturday, March 8, 1884, at 10 o'clock A.M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

THOS. H. ATHERTON,
7-10 Auditor.

AUDITOR'S NOTICE.

The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county to pass upon the exceptions to the account of Andrew Bryden, Trustee of The Pittston Knitting Company, Limited, and make distribution of the fund in the hands of the Trustee, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, in Wilkes-Barre, Pa., on Thursday, the 28th day of February, 1884, at 10 o'clock A. M., at which time and place all parties interested are required to appear and present their objections and claims, or be debarred from coming in on said fund.

WILLIAM S. McLEAN,
5-8 Auditor.

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NOTICE IS HEREBY GIVEN, THAT THE final hearing upon the application of William Moran for discharge under the Insolvent Laws will be held in the Court of Common Pleas of Luzerne county on Thursday, March 13, 1884, at 9 o'clock A. M.

7-9 WILLIAM MORAN.

NOTICE IS HEREBY GIVEN, THAT, IN accordance with the resolution of the Board of Directors, there will be a meeting of the Stockholders of the Glen Summit Hotel and Land Company held at the office of the Lehigh Valley Coal Company, Wilkes-Barre, Pa., on Wednesday, 23d April, 1884, at 2 o'clock P. M., to consider the question of issuing bonds and mortgage upon the franchises and property of the company for the purpose of completing the hotel, furnishing the same, etc., and for such other business as may come before the meeting.

By order of the Board of Directors.

ANDREW H. McCLINTOCK,

7-16 Secretary.

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 630, October term, 1883. Libel in divorce a vinculo matrimonii. Catharine Jones, by her next friend, John Gaynor, v. John F. Jones. The alias subpoena in the above case having been returned, "That the said John F. Jones cannot be found in Luzerne county." You, the said John F. Jones, respondent, are required to appear on Monday, March 3, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,

J. T. LENAHAN, Sheriff.

Attorney. 5-8

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county, No 4, May term, 1883. Libel in divorce a vinculo matrimonii. Mary Jane Skipper, by her next friend, Mary Moharter, v. Elijah Skipper. The alias subpoena in the above case having been returned, "That the said Elijah Skipper cannot be found in Luzerne county." You, the said Elijah Skipper, respondent, are required to appear on Monday, March 3, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,

G. H. R. PLUMB, Sheriff.

Attorney. 5-8

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 250, May term, 1883. Libel in divorce a vinculo matrimonii. F. S. Hudnut, by her next friend, etc., v. S. A. Hudnut. The alias subpoena in the above case having been returned, "That the said S. A. Hudnut cannot be found in Luzerne county." You, the said S. A. Hudnut, respondent, are required to appear on Monday, March 3, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,

G. R. BEDFORD, Sheriff.

Attorney. 6-9

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 229, November term, 1883. Libel in divorce a vinculo matrimonii. James A. Fleming v. Mary Fleming. The alias subpoena in the above case having been returned, "That the said Mary Fleming cannot be found in Luzerne county." You, the said Mary Fleming, respondent, are required to appear on Monday, May 12, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,

B. McMANUS, Sheriff.

Attorney 7-10

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 138, January term, 1884. Libel in divorce a vinculo matrimonii. Euphemia McGuire, by her next friend, Mary Ann Davis, v. John McGuire. The alias subpoena in the above case having been returned, "That the said John McGuire cannot be found in Luzerne county." You, the said John McGuire, respondent, are required to appear on Monday, May 12, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,

M. E. WALKER, Sheriff.

Attorney. 8-11

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 700, October term, 1883. Libel in divorce a vincula matrimonii. Sarah J. McFarlane, by her next friend, George L. Philips, v. John McFarlane. To John McFarlane—Please take notice that the court has granted a rule on you to show cause why a divorce a vincula matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoenas having failed on account of your absence. Returnable on Monday, March 10, A. D. 1884, at 10 o'clock A. M.

GEORGE K. POWELL,

8-9 Solicitor.

CHAS. D. FOSTER,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

WILLIAM S. McLEAN,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

W. S. PARSONS,

ALDERMAN,

WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, FEBRUARY 29, 1884. NO. 9.

SECTION 2, Rule III., of Rules of Orphans' Court:

Now, to wit, February 23, 1884, the following rule of the Orphans' Court relative to claim of exemption by the widow or children of a decedent where no letters of administration have been granted, as provided by act of 4th June, 1883, is established:

If the petition set forth facts necessary to give the court jurisdiction, the same shall be filed, and thereupon the court will appoint two appraisers, whose duties shall be performed in accordance with the existing practice where letters have been granted; and their return shall be advertised and confirmed in the manner heretofore prescribed for such matters. This shall be known as Section 2 of Rule III.

BY THE COURT.

We approve the practice as set forth in Welsh's estate, 14 W. N. C. 175, except in so far as it is modified in the above order.

Court of Common Pleas of Luzerne County.

ANNA WALTER *v.* FREDERICK WALTER.

1. It is the duty of the court to make a proper allowance to the wife, to enable her to maintain her suit for divorce.
2. The discretion reposed in the court as to the amount of alimony to be allowed, must have reference to the pecuniary ability of the husband.

Rule for allowance of alimony, etc.

The opinion of the court was delivered January 28, 1884, by

WOODWARD, J.—It is the duty of the court to make a proper allowance to the wife, to enable her to maintain her suit for divorce, in all cases where, by reason of her own poverty, she cannot command the necessary means to support herself, pay

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counsel fees, etc. But the discretion reposed in the court as to the amount of alimony to be allowed, must have reference to the pecuniary ability of the husband.

In the present case, the depositions do not afford us the information in regard to the circumstances of the husband, which we require, in order to act intelligently upon the application for alimony. Until further evidence is produced on this point, we withhold our decree.

Court of Common Pleas of Columbia County.

S. P. KRICKBAUM v. THE SCHOOL DIRECTORS OF BENTON.

1. When a statute confers a power which concerns the public, as well as individuals, it is not merely permissive, but is mandatory.
2. Where some antecedent and pre-requisite condition must exist prior to the exercise of a power conferred by statute, the statute must be regarded as mandatory.
3. The 25th section of the act of 1854, in respect to the selection of school books by directors, is mandatory in its character, in that it requires that the selection of a series of school books shall be at a meeting of directors and teachers after the annual election of the latter.
4. An injunction will lie against school directors to restrain them from adopting a new series of text books otherwise than as prescribed by law.
5. When school directors have adopted a series of school books, not at a meeting of directors and teachers, they will not be restrained by injunction from adopting a series of books according to law at any time after discovering their error, the books irregularly adopted not having been introduced into the school.

Motion to dissolve preliminary injunction.

The opinion of the court was delivered August 18, 1880, by

ELWELL, P. J.—The school directors of Benton school district, at a special meeting held on the 17th of June, 1879, by a unanimous vote, passed a resolution adopting a series of text books, therein designated, for use in the schools of the district for the ensuing three years. No school teachers were present at the meeting, and none had then been elected for the current school year to teach in that district. In pursuance of the resolution, arrangements were made in writing with the agent of the publishing house of the books to supply them for three months at a

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certain price, and if, after that time, it was desired that the house should furnish the books, they were to be furnished at a certain named discount from catalogue wholesale prices.

Under this arrangement a box of the books was shipped by the publishers to J. J. McHenry, one of the directors (according to agreement), which was subsequently returned, the books being unused.

This preliminary injunction was granted to restrain the use of any books other than those adopted by resolution of June 17th, 1879.

* * * * * * *

The jurisdiction of school directors over the subject of text books for the schools of their district is derived from and is regulated by acts of Assembly, passed on the 8th day of May, 1854, and the 25th day of May, 1871. Purd. Dig. 244, pl. 55 and 260, pl. 148-9. By the 25th section of the act of 1854, it is enacted as follows: "Immediately after the annual election of teachers in each school district of the state, and before the opening of the schools for the ensuing term, there *shall* be a meeting of the directors or controllers and teachers of each district, at which meeting the directors or controllers shall select and decide upon a series of school books in the different branches to be taught during the ensuing school year, which books, and no other, shall be used in the schools of the district during said period."

By the act of 1871, the directors are forbidden to make any change in the series of text books more than once in three years. Any violation of this provision is made a misdemeanor, and subjects an offending director, on conviction, to a fine not exceeding two hundred dollars and to removal from office.

School directors may be enjoined from adopting a new series of text books except at the time prescribed by law. McNutt *v.* School Directors of Chartiers, 22 Pitts. L. J. 42. That is, if they, at a meeting constituted as required by the act of Assembly, have adopted a series of text books, no change shall be made until three years thereafter.

Whether the meeting of the 17th June, *before* the election of teachers, was a legitimate meeting for the purpose of adopting

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text books for the schools or not depends upon the proper construction of the statute. If that portion of the act which relates to the presence of school teachers is merely *directory*, the directors might legally act in their absence; but if it is *mandatory*, the action in their absence was invalid, and does not preclude the directors from proceeding according to law in the discharge of their duty.

It is not always easy to determine to which class the provisions of a statute belong. It is impossible to reconcile all the decisions of the courts upon the subject; but by reference to a few of them which appear to be proper aids to the construction of the statute in question, we may arrive at the intent of the legislature in regard to the subject under consideration.

Words in a statute which relate merely to the time or manner of doing an act may be considered directory; but where they relate to the powers to be exercised, they are in general imperative. Bladen *v.* Philadelphia, 10 Smith, 466. Where the thing directed to be done is of the essence of the thing required, the statute is mandatory. Norwegian Street, 31 Smith, 349.

Where the directions of a statute are given with a view to the proper, orderly, and prompt conduct of business merely, the provision may be regarded as directory. But where the fair interpretation of a statute which directs acts or proceedings in a certain way shows that the legislature intended compliance with such provision to be *essential* to the validity of the act or proceeding; or, where some antecedent and pre-requisite condition must exist prior to the exercise of the power, the statute must be regarded as mandatory. Homer City *v.* Omaha, 7 U. S. Dig. N. S. 804, pl. 127. And, although the language of a statute is simply enabling, yet, if it confers a power which concerns the *public* as well as individuals, it is not merely permissive, but is mandatory. People *v.* Supervisors, 11 Abb., N. Y., 35. Mason *v.* Tearson, 9 How. 248.

To say that a statute is directory approaches so near legislative discretion that this rule ought to be applied by the courts with reluctance, and only in cases where public mischief would otherwise occur. Bishop on Statutory Crimes, 256, and note 8. Dryfus *v.* Bridges, 12 Miss. 247.

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In the light of these reasonable rules, I am led to the conclusion that the provisions of the act of 1854, which require that the meeting at which text books may be adopted for a district *shall* be held *after* the election of teachers, and that it *shall* be composed of the school directors and *the teachers*, are mandatory, and must be observed. The power conferred upon the directors is for the benefit of the people of their district. The legislature, having full knowledge that school directors are not always elected because of their acquaintance with books, made it obligatory upon them, in the performance of an important duty, to discharge it in the presence, and, impliedly, with the aid of persons having the requisite knowledge.

It follows from this conclusion that the resolution of the directors of the 17th of June, 1879, was *invalid*, and does not stand in the way of a selection and decision upon a series of school books at a meeting to be held according to the provisions of the act of Assembly.

The granting or refusing a preliminary injunction is largely discretionary with the court. It is usually refused where there has been delay in making complaint, or where issuing it will produce more injury to others than advantage to the complainant.

In this case, during one whole year other school books than those designated in the resolution have been procured and used by the patrons of the schools with the consent of the directors, and no steps have been taken by the complainant to enforce the resolution before mentioned. In fact, as a school director, he voted to reconsider that resolution.

I refer to that fact, not for the purpose of affecting the record of the secretary by the affidavits, but as a reason why the complainant is not entitled to invoke in his behalf the strong arm of the law.

Injunction dissolved.

For saying to the plaintiff's wife these words, "You had a bastard in London, and go thither and have another," and the judge held the action would not lie: but see because of the variance which may be in such case between the husband and his wife, which is damage, etc

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Court of Common Pleas of Luzerne County.

GEORGE S. PFOUTS *et ux. v.* JONATHAN CRESLEY.

Slander. Bail.

Where, in an action of slander, the affidavit of the plaintiff contains no averment of special damage, or that the defendant is about to leave the state, and the alleged slanderous words do not impute a crime, the defendant is entitled to be discharged on common bail.

Rule to show cause of action, and why the defendant should not be discharged on common bail.

The opinion of the court was delivered December 19, 1883, by

RICE, P. J.—There being no averment in the affidavit of special damage, or that the defendant is about to leave the state, and the words alleged to have been spoken not imputing a crime, it would seem from the authorities that he is entitled to be discharged on common bail. See McCawley *v.* Smith, 4 Y. 193; Charles *v.* Holmes, 1 Browne, 297; A. B. & C. B. *v.* R. *et ux.*, 4 W. N. C. 185; Scott *v.* Crum, 1 Pears. 196.

The rule to discharge on common bail is made absolute.

BOOK NOTICE.

PENNSYLVANIA SUPREME COURT REPORTS.—Containing cases in law and equity adjudged in the Supreme Court of Pennsylvania. Being those cases not designated to be reported by the state reporter. By Samuel W. Pennypacker, of the Philadelphia bar. Vol. II. Cases of January term, 1882. Philadelphia: Rees Welsh & Co., 1884.

This volume, the second in the series, includes such cases of the Supreme Court not contained in the regular reports. The volume before us contains 604 pages; the type used is excellent, and the binding is equal to the best of our law reports. This work is full of cases of great value to the profession, and no lawyer can afford to be without it. The fact that Mr. Pennypacker is the reporter speaks volumes in its behalf. Separate lists of the judges of the court below, whose decisions appear in this volume, and of the masters, referees, auditors, commissioners and counsel, have been added—a valuable aid to the searcher for a case whose name has been forgotten.

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SHERIFF'S SALES.

Abstract of property to be sold by J. S. Oberrender, Sheriff of Luzerne county, on Saturday, March 8th, A. D. 1884, at 10 o'clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are numbered, to wit:

1

Suit of Patrick Reiley v. Edwan More.
Lenahan, Att'y.

All that piece of land in the township of Hanover, beginning at a corner on the west side of South street laid out in a plan of lots on land laid out and owned by Elizabeth Kilver, and where such streets cross each other, thence in a westerly direction along the north side of said South street 50 feet to point or corner, thence in a northerly direction 119 feet be the same more or less to the line of land sold by James Ward and at a point from said James Ward's line to Spring street 50 feet, and from said point or corner on the line of James Ward and Spring street 119 feet to the place of beginning; in all containing 5950 superficial feet; all improved, having thereon one frame dwelling house and outbuildings.

2

Suit of the Hazleton Building, Loan and Trust Association v. Michael Ryon and Mary Ryon, his wife.
Troutman, Att'y.

A lot of ground on the west side of Wyoming street, in the borough of Hazleton, being lot marked No. 1 in square 86, commencing at the northwest corner of Wyoming and Oak streets, containing in front on Wyoming street 30 feet, and extending of that breadth in length and depth westward along the north side of Oak street 190 feet to a 20 feet wide street; all improved, and having erected thereon a double 2½-story frame dwelling with stone basement, frame outkitchen, frame coal house, stable and other frame outbuildings.

7-9

ORPHANS' COURT SALE.

Estate of Thomas Seybert, deceased. In partition. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at public vendue or outcry, on the premises in Salem township, on Wednesday, the 12th day of March, 1884, at 2 o'clock P. M., the following piece of land in Salem township, Luzerne county, Pennsylvania, beginning at a point, at low water mark, on the bank of the Susquehanna river, at a corner of lands now or late of Franklin Stewart; thence along the said river, north 32½ degrees west, 40 perches to a corner; thence along the said river, north 10 degrees west, 36 perches to a corner; thence along said river, 6 degrees east, 46 2-10 perches to a corner; thence by same, north 1 degree 15 minutes east, 100 perches to a corner; thence along line of land of Christian Smithers, north 85¼ degrees east, 48 perches to a stone; thence along land of C. Smithers, south 1 degree 47 minutes west, 39 perches to a stone corner; thence along other land of said Smithers, north 83 degrees 13 minutes east, 178 perches to a stone corner; thence along line of lot No. 44, now or late of A. Jameson, south 3 degrees west, 137 perches to a stone; thence by land of A. Jameson estate, south 1 degree 17 minutes west, 22 perches to a stone corner; thence by land of Frank and Lee Stewart, south 83 degrees west, 146 perches to a stone corner; thence north 29 degrees west, 15——to a stone corner; thence south 83 degrees west, 11 perches to a stone corner; thence south 29 degrees east, 15 perches to a stone corner; thence south 64 degrees 27 minutes west, 56 perches to place of beginning; containing 234 acres, 140 perches, more or less, on which are erected a brick 2-story dwelling house, stable and outbuildings.

TERMS OF SALE.—Five hundred dollars ($500) cash on day of sale; balance of one-third bid on confirmation of sale and delivery of deed; one-half of the balance in two semi-annual payments, payable six and twelve months from date of confirmation of sale, with interest from confirmation; the remaining one-third to remain a lien on the premises, to secure the dower interest of the widow of decendent, the amount of such dower interest to be hereafter adjusted by the auditor of the fund realized from said sale; any balance of purchase money appearing to be due after securing widow's dower interest to be paid on report of auditor or as the court may hereafter indicate.

BENJAMIN EVANS,
C. B. JACKSON, Trustee.
Attorney. 7-9

ORPHANS' COURT SALE.

Estate of David Benscoter, deceased. In partition. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Mansion House, late of the decedent, in Union township, on Thursday, March 13, 1884, at 10 o'clock A. M., the following pieces of land:

No. 1. The Homestead Farm, situate in the township of Union aforesaid, bounded on the north by lands of William Harned, on the east by lands of Abram Wheeler and James Benscoter, on the south by lands of William H. Masters, Jasper Winans and Simon Scott, and on the west by lands of Nathan Baer and Peter Masters; containing 125 acres of land more or less, being purpart No. 1 in said partition; 80 acres improved, balance in timber. There is also upon said farm 1 two-story frame dwelling house, 2 barns, 3 orchards, 1 wagon shed, 1 cow shed, outbuildings and other improvements. Three miles from Shickshinny.

No. 2. Situate in said township of Union, one mile from Shickshinny, bounded on the north by lands of Ephraim Gregory, on the east by lands in the warrantee name of James McNeal, on the south by lands of John Baer, Martha Kester and J. S. Koons, and on the west by lands of Samuel Masters; containing 50 acres of land more or less, being purpart No. 2 in said partition; 15 acres improved, upon which is a 1½-story frame dwelling house about 18x26, 1 bank barn, 1 stable, outbuildings and other improvements.

No. 3. Also, another lot of land in the borough of Shickshinny, bounded on the north by lot of Peter Daum, on the east by Union street, on the south by land of B. D. Koons, and on the west by land of Peter Daum, being a lot 50 feet front and rear by 150 feet deep; improved, with 1½-story frame house, and outbuildings.

TERMS OF SALE.—The amount to be set apart to secure the widow's (one-third less expenses) interest to be and remain a lien upon the premises, the interest to be paid semi-annually during her life, the principal at her death; 10 per cent. at day of sale, 40 per cent. on confirmation; the balance, with interest from the time of confirmation, in one year from the day of confirmation, to be secured by bond and mortgage.

W. J. BENSCOTER,
Q. A. GATES, Administrator and Trustee.
Attorney. 7-9

ORPHANS' COURT SALE.

Estate of Mary Culver, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Friday, the 14th day of March, A. D. 1884, at 10 o'clock A. M., the following piece of land, in the township of Ross, bounded on the north by lands of Jacob Ely and Jeremiah Sickler estate, on the east by lands of Henry Long and Hillman Moss, on the south by lands of C. H. Culver, and on the west by lands of Nathan Culver and Warren Hoffman; all improved except about 15 acres in Woodland; containing about 44 acres, together with the appurtenances, a 1½-story frame house, and a small orchard.

TERMS OF SALE.—One-half the purchase money down at the time of sale, balance on confirmation of sale and delivery of deed.

ELISHA CULVER,
DORRANCE & PRICE, Administrator.
Attorneys. 8-10

ORPHANS' COURT SALE.

Estate of William Linden, deceased. By virtue of an order of the Orphans' Court of Luzerne county, to me directed, there will be exposed to public sale by public vendue or outcry, on the premises, in the township of Salem, on Tuesday, March 11, A. D. 1884, at 10 o'clock A. M., all that piece of land in the township

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of Salem, bounded on the north by public road leading from Berwick to Beach Haven, on the south by extension of Canal street in Berwick, east by lot of Franklin Solt, on the west by lot of Mrs. Reuben Berlin; the lot being 200 feet more or less in depth and 49½ feet more or less in width, on which is erected a 2-story dwelling and outbuildings.

TERMS OF SALE.—$100 down on day of sale, 25 per cent. of balance on confirmation of sale and delivery of deed, balance with interest from confirmation one year from confirmation. Deferred payment to be secured by bond and mortgage on the premises.

F. E. BROCKWAY,
C. B. JACKSON, Administrator.
Attorney. 8-10

ORPHANS' COURT SALE.

Estate of Joseph Hawk, deceased. In pursuance of an order of the Orphans' Court of Luzerne county, the undersigned will sell, at public sale, on the premises, in the village of Conyngham, on Saturday, the 22d day of March, A. D. 1884, at 2 o'clock P. M., all that lot of land in the village of Conyngham, Sugarloaf township, on the west side of the Lehigh & Susquehanna road, No. 15 on the original town plot of the said village of Conyngham, bounded on the south by lot of Amos Shupp, north by land of Catherine Cumins, west by land of Elizabeth Hutton, east by the Lehigh & Susquehanna turnpike; containing about 3 acres of land, on which is erected a 2-story frame dwelling house, stable, barn and other outbuildings, fruit orchard, etc.

TERMS OF SALE.—One-third on day of sale, one-third on confirmation of sale, and balance, with interest from confirmation of sale, within six months from day of sale. Deferred payments to be secured by bond and mortgage.

GEORGE W. DRUM,
A. R. BRUNDAGE, Administrator.
Attorney. 8-10

ORPHANS' COURT SALE.

Estate of Solomon Yost, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, in the township of Sugarloaf, in said county, on Tuesday, March 18, 1884, at 2 o'clock P M., all that tract of land, in the township of Sugarloaf, beginning at the northerly corner of land of Henry Lawn on line of land of Tobias Schobert, thence 80 8-10 perches to a post and stones, thence 26 4-10 perches to a post and stones on line of land of Drumheller and Raedler; thence by said last named line 98 5-10 perches to a post and stones, a corner also of land of Charles Brown; thence by line of Brown 44 perches to a post corner, being also a corner of Jacob Breithaupt; thence by line of land of Breithaupt 40 perches to a post corner, thence still by line of Jacob Breithaupt 60 perches to a post corner, thence by line still of Jacob Breithaupt 24 perches to a corner of William Walp, thence by line of land of William Walp 61 3-10 perches to a stone corner (the stone being buried) in the southerly side of the public road leading from the Berwick and Hazleton turnpike to Drum's post office, thence along the southerly side or portion of said public road 163 9-10 perches to a stone (buried) in the southerly side of said public road at an angle of said road and on line of Henry Lawn aforesaid, thence by line of land of said Henry Lawn 99 8-10 perches to the place of beginning; containing 133 acres and 119 perches strict measure; about 77 acres thereof improved, with a 1½-story frame dwelling houses thereon, 2 barns, and other outbuildings, and an apple orchard of nearly 4 acres thereon.

TERMS OF SALE.—Ten per cent. of the purchase money to be paid on the striking down of the sale, one-third of the balance on confirmation of the sale, one-third on April 1st, 1885, and the remaining one-third on April 1st, 1886, with interest on the whole unpaid balance from confirmation of the sale. Deferred payments to be secured by bond and mortgage on the property.

STEPHEN TURNBACH,
ALEX. FARNHAM, Administrator.
Attorney. 8-10

ESTATES TO BE AUDITED BY THE Orphans' Court of Luzerne county. Notice is hereby given that accounts have been filed and confirmed absolutely by the court in the following estates:

1. Ella J. Solly; Wm. J. Solly, Administrator; 4th March, 1884.

2. William Briggs; J. F. Briggs, Trustee in partition; 4th March, 1884.

3. Sarah H. Schloyer; Washington Houck, Executor; 5th March, 1884.

4. P. M. Goodwin; A. Goodwin, Jr., Executor; 10th March, 1884.

5. Catharine Steger; William Kauffman, Administrator; 11th March, 1884.

The accounts enumerated and designated in the above list will be audited by the court, in the Court House, in the Orphans' Court room, during the session of court on the days set forth opposite the name of each estate, at which time all persons interested shall attend, if they see fit, and present their claims against said estate, or forever thereafter be debarred from coming upon said fund.

JOSEPH HENDLER,
7-10 Clerk O. C.

ESTATE OF ISAAC KREIDLER, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE KREIDLER,
4-9 Wilkes-Barre, Pa.

ESTATE OF JAMES GIVENS, LATE OF Hazleton, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BRIDGET GIVENS,
4-9 Hazleton, Pa.

ESTATE OF WILLIAM STONE, LATE OF Hazle township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES STONE,
4-9 Stockton, Pa.

ESTATE OF HENRY KROPP, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH KROPP,
L. D. SHOEMAKER, Wilkes-Barre, Pa.
Attorney. 5-10

ESTATE OF MILES SWEENEY, LATE OF Jenkins township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE SWEENEY,
6-11 Pittston, Pa.

ESTATE OF LEWIS FREDERICK, LATE OF Sugarloaf township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

RACHEL FREDERICK,
7-12 Conyngham, Pa.

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ESTATE OF JAMES MOYER, LATE OF Hollenback township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ABRAHAM MOYER,
AARON MOYER,
A. R. BRUNDAGE, Hobbie, Pa.
Attorney. 4-9

ESTATE OF FERDINAND BRUNE, LATE of West Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH D. BRUNE,
GEO. S. FERRIS, West Pittston, Pa.
Attorney. 6-11

ESTATE OF JACOB OCKSENREIDER, LATE of Sugarloaf township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

REUBEN E. OCKSENREIDER,
Deringer, Pa.

ESTATE OF JOSEPH HAWK, LATE OF Sugarloaf township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEO. W. DRUM,
A. R. BRUNDAGE, Conyngham, Pa.
Attorney. 7-12

ESTATE OF DELPHINE E. VER PLANK, late of West Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SAMUEL P. FENN,
G. S. FERRIS, Pittston, Pa.
Attorney. 5-10

ESTATE OF JONAS LONG, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

PAULINA LONG,
S. J. STRAUSS, Wilkes-Barre, Pa.
Attorney. 6-11

ESTATE OF ARAMINDA CRAWFORD, LATE of Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

B. G. CRAWFORD,
R. M. ESPY, Wilkes-Barre, Pa.
Attorney. 6-11

ESTATE OF HUGH MURRAY, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELIZABETH MURRAY,
6-13 Wilkes-Barre, Pa.

ESTATE OF JAMES BOYD, JR., LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. G. WEAVER,
JAMES BOYD, SR.,
J. L. LENAHAN, Wilkes-Barre, Pa.
Attorney. 5-10

ESTATE OF R. J. WISNER, LATE OF WEST Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

THEODORE STRONG,
CHARLES H. FOSTER,
J. A. WISNER,
G. S. FERRIS, Pittston, Pa.
Attorney. 5-10

ESTATE OF JOHN J. HUMMELL, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARGARET A. HUMMELL,
A. RICKETTS, Wilkes-Barre, Pa.
Attorney. 7-12

ESTATE OF PATRICK BRADLEY, LATE OF Plymouth township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

J. W. SHELLHAMMER,
W. S. McLEAN, Plymouth, Pa.
Attorney. 8-13

ESTATE OF L. H. STEELE, LATE OF PLYmouth, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

S. A. STEELE,
7-12 Plymouth, Pa.

ESTATE OF JAMES McNEAL, LATE OF Salem township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARVEY McNEAL,
9-14 Plains, Pa.

ESTATE OF BERNARD NEVIN, LATE OF Ashley, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EDWARD P. NEVIN,
9-14 Ashley, Pa.

ESTATE OF PHOEBE HANZ, LATE OF Black Creek township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. R. HANZ,
9-14 Seybertsville, Pa.

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ESTATE OF ELIZABETH WILLIAMS, LATE of Plains township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

THOMAS E. LEWIS,
W. S. McLEAN, Plains, Pa.
Attorney. 9-14

ESTATE OF HENRY LAUN, LATE OF Sugarloaf township, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CAROLINE LAUN,
BENNETT & NICHOLS, Seybertsville, Pa.
Attorneys. 8-13

ESTATE OF WASHINGTON LEE, LATE OF Nanticoke, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

PRISCILLA L. BENNETT,
E. P. & J. V. DARLING, Wilkes-Barre, Pa.
Attorneys. 9-14

ESTATE OF HELEN A. BRYANT, LATE OF Blakely borough, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

S. B. STURDEVANT,
BENNETT & NICHOLS. Wilkes-Barre, Pa.
Attorneys. 9-14

WIDOWS' APPRAISEMENTS.

Notice is hereby given to all persons concerned, that widows' appraisements in the following estates have been approved nisi by the Orphans' Court of Luzerne county, and, unless exceptions are filed, will be presented for final approval on Monday, the 3d day of March, 1884:

Jesse Hart, Henry Kropp, William McLaughlin, Samuel F. Shay, Anthony Welsh, John L. Davis, L. H. Steele, John S. Cosgrove, and Martin Mitchell, deceased.

JOSEPH HENDLER,
7-9 Clerk O. C.

INCORPORATION OF EDWARDS BOROUGH —Notice is hereby given to all persons interested that an application will be made to the Court of Quarter Sessions of Luzerne county, on Monday, March 31st, 1884, at 10 o'clock A. M., by certain citizens and freeholders residing in certain portions of Kingston and Plymouth townships, in said county, asking that said portions of Kingston and Plymouth townships shall be incorporated in a borough.

N. TAYLOR,
H. B. PAYNE,
9-11 Attorneys for Petitioners.

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 250, May term, 1883. Libel in divorce a vinculo matrimonii. F. S. Hudnut, by her next friend, etc., v. S. A. Hudnut. The alias subpoena in the above case having been returned, "That the said S. A. Hudnut cannot be found in Luzerne county." You, the said S. A. Hudnut, respondent, are required to appear on Monday, March 3, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
G. R. BEDFORD, Sheriff.
Attorney. 6-9

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 138, January term, 1884. Libel in divorce a vinculo matrimonii. Euphemia McGuire, by her next friend, Mary Ann Davis, *v.* John McGuire. The alias subpoena in the above case having been returned, "That the said John McGuire cannot be found in Luzerne county." You, the said John McGuire, respondent, are required to appear on Monday, May 12, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
M. E. WALKER, Sheriff.
Attorney. 8-11

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 229, November term, 1883. Libel in divorce a vinculo matrimonii. James A. Fleming *v.* Mary Fleming. The alias subpoena in the above case having been returned, "That the said Mary Fleming cannot be found in Luzerne county." You, the said Mary Fleming, respondent, are required to appear on Monday, May 12, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
B. McMANUS, Sheriff.
Attorney. 7-10

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 700, October term, 1883. Libel in divorce a vincula matrimonii. Sarah J. McFarlane, by her next friend, George L. Philips, v. John McFarlane. To John McFarlane—Please take notice that the court has granted a rule on you to show cause why a divorce a vincula matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoenas having failed on account of your absence. Returnable on Monday, March 10, A. D. 1884, at 10 o'clock A. M.

GEORGE K. POWELL,
8-9 Solicitor.

IN EQUITY. No. 1, FEBRUARY TERM, 1884. Fritz et al. v. Eustice et al.

Now, 18th February, 1884, upon filing affidavit of John Fritz and upon special motion the court order that said defendant or defendants be notified to be and appear and answer the requirements of said bill on the first Monday of March, A. D. 1884, and that said notice be in accordance with the Act of Assembly in such cases provided, and be published in the meantime in the *Weekly Record of the Times* and the *Luzerne Legal Register* by the court. You, therefore, Charles Fritz, Angeline Carr, *nee* Fritz, William Fritz, John Carr, Thomas Chigwidden, James Chigwidden, *nee* Fritz, and Henry Fritz, are hereby notified that a bill in equity, numbered as aforesaid, has been filed in the Court of Common Pleas of Luzerne county, praying that a commission issue to a Master in Chancery to divide and allot premises which were of Maria Fritz, deceased, of whom you are children and heirs, said premises being situate in Hanover township, said county, that the respective parts thereof may be allotted and conveyed to the parties respectively. That if the said master shall determine that said premises cannot be divided without prejudice to or spoiling the whole, then to value the same and make report thereof to the court. If parties in interest refuse to take the same at the valuation that the court may order, the master to make sale thereof.

You are therefore notified to appear on or before the first Monday of March, A. D. 1884, and comply with the requirements of said bill; and that, if you do not so comply upon the expiration of such specified time, the said plaintiffs will proceed as fully and effectually as if such process had been duly served within the jurisdiction of said court.

G. L. HALSEY,
8-9 Solicitor for Plaintiffs.

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AUDITOR'S NOTICE.

The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county, to report distribution of a fund of $1403.33, paid into court by decree of 19th October, 1883, either to the separate estates of A. D. King and Edward Howell, deceased, or to the representatives or creditors of said estates, or to the creditors of the late firm of Howell & King, as their claims upon the same may be established, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, Wilkes-Barre, on Saturday, March 8, 1884, at 10 o'clock A.M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

THOS. H. ATHERTON,
7-10 Auditor.

NOTICE IS HEREBY GIVEN, THAT, IN accordance with the resolution of the Board of Directors, there will be a meeting of the Stockholders of the Glen Summit Hotel and Land Company held at the office of the Lehigh Valley Coal Company, Wilkes-Barre, Pa., on Wednesday, 23d April, 1884, at 2 o'clock P. M., to consider the question of issuing bonds and mortgage upon the franchises and property of the company for the purpose of completing the hotel, furnishing the same, etc., and for such other business as may come before the meeting.

By order of the Board of Directors.

ANDREW H. McCLINTOCK,
7-16 Secretary.

NOTICE IS HEREBY GIVEN, THAT THE final hearing upon the application of William Moran for discharge under the Insolvent Laws will be held in the Court of Common Pleas of Luzerne county on Thursday, March 13, 1884, at 9 o'clock A. M.

7-9 WILLIAM MORAN.

C. F. BOHAN,

a student at law in the office of Garrick M. Harding and John McGahren, will apply at March term, 1884, for admission to practice as an attorney in the several courts of the county of Luzerne. 9-11

CHAS. D. FOSTER,

ATTORNEY AT LAW,

WILKES-BARRE, PA

WILLIAM S. McLEAN,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

W. S. PARSONS,

ALDERMAN,

WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

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Court of Common Pleas of Susquehanna County.

COON *v.* CATTEN.

Practice. Judgment. Rules of Court.

The Court of Common Pleas has an inherent power to make rules for the transaction of its business, not contradictory to the law of the land, and can therefore strike from the records a judgment entered in violation of its rules.

Rule to strike off judgment.

The opinion of the court was delivered November 10, 1879, by

MCCOLLUM, P. J.—This judgment was entered on a warrant of attorney above twenty years old. Our 16th rule of court, section 2, provides that, "if a warrant of attorney or written power to enter or confess judgment be above ten and under twenty years old, the court in term time, or a judge in vacation, must be moved for leave to enter judgment, which motion must be founded upon an affidavit of the due execution of the warrant or written power, and that the money is unpaid and the parties living. But if the warrant or written power be above twenty years old, there must be a rule to show cause, and that served upon the party if within the state." There was no affidavit made, rule to show cause granted or applied for, or leave to enter judgment obtained, in this case. It is now moved to strike off the judgment because of non-compliance with the above rule of court. It is contended by plaintiff's counsel that the rule of court in question is in conflict with the provision of the 28th section of the act of February 24th, 1806, authorizing prothonotaries to enter judgments in certain cases without the agency of an attorney or declaration

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filed; that consequently the court had no power to establish such a rule, and it is inoperative. Of this act it has been said: "The act of Assembly merely substitutes the prothonotary, though not named or described in the warrant, for an attorney of the court; but it supplies no deficiency which may exist in the power." T. & H., Pr. 3d ed., vol. i., 344; Rabe *v.* Heslip, 4 Barr, 140.

"The evident and sole intention of the legislature, in conferring the power of entering a judgment on the judgment bond without the intervention of an attorney, was to exempt the obligor from the payment of costs to an attorney." Helvete *v.* Rapp, 7 S. & R. 307; Black *v.* Conrad, 1 R. 250.

It is clear the act of 1806 was not intended to, and did not, deprive the courts of any power they previously possessed of regulating the practice in entering judgments on old warrants of attorney. Our rule of court is analogous to, but more liberal than, the English practice in such cases. There judgment cannot be entered after the lapse of a year and a day from the date of the warrant without applying to the court in term time or a judge in vacation.

I am not aware that the power of the court to regulate the practice in entering judgments on old warrants and confessions, and to establish the rule under consideration, has been questioned or doubted before. Certain it is that a rule and practice like the one in question exists throughout the state, and has been acquiesced in for a long time by the profession, and without protest. "Every court of record has an inherent power to make rules for the transaction of its business not contradictory to the law of the land. Under this power the Common Pleas have a right to make a rule that the party appealing from the award of arbitrators shall give his opponent notice of the time and place of entering the appeal, and the name of his surety, although the act of Assembly does not require it." Barry *v.* Randolph, 3 Binney, 277.

"Under the general power of the Common Pleas to regulate its practice, it has authority to make a rule requiring of defendants an affidavit of defense, and directing judgment to be entered against them if the affidavit is not filed within a certain time." Vanatta *v.* Anderson, 3 Binney, 417. In that case it was objected that the rule was contrary to the constitution, but Tilghman, C. J.,

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said: "As to the objection on the ground of the constitution, it does not appear to me to be well founded. The rule makes no alteration in the trial by jury, but only provides that, previous to the trial, the defendant shall swear or affirm that, to the best of his knowledge and belief, he has a just cause of defense." Vanatta *v.* Anderson was decided in 1811, and the chief justice, in delivering the opinion of the court, and in defense of the power of the Common Pleas to make the rule then under consideration, referred to other rules of court in force and unquestioned; among them this: "By the 25th rule for regulating the practice made by the presidents of the several Courts of Common Pleas soon after their organization under the present constitution, if a warrant of attorney to confess judgment be above ten years old, judgment cannot be entered without an affidavit of the due execution of the warrant, the non-payment of the debt, and the life of the party."

I hold, therefore, that the court had full power to establish the rule in question, and the judgment in this case having been entered in violation of it, should be stricken from the record.

Rule made absolute.

Hubbard Bester Payne was born in Kingston, Pennsylvania, where he now resides, July 20, 1839 He is a descendant of Stephen Paine, a miller from Great Ellingham, near Attleburg, county Norfolk, England, who came to New England in 1638 with a large company of emigrants from the neighborhood of Hingham, bringing his wife, three children, and four servants, in the ship Diligent, of Ipswich. He settled first in Hingham, Mass., but about 1643 removed to Rehoboth, of which town he was one of the founders and first proprietors. He possessed large estates in that and adjoining towns, and was prominent in the affairs of the church and colony. He was representative to the General Court in 1641 for Hingham and for Rehoboth for many successive years and until his death, August, 1679. The will of Stephen Paine is on file in the Boston State House. Stephen Paine, a tanner, eldest son of Stephen Paine, sen., was

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born in England about 1629, and came with his father to New England in 1638. He was admitted freeman in 1657. He had married in 1652 Ann Chickering, daughter of Francis of Dedham. He was an active participant in King Philip's Indian war, and contributed liberally to its cost. He owned much land in Rehoboth, Swanzey, and Attleboro. He died at Rehoboth 1679, a few months before his father.

Stephen Paine, son of Stephen Paine, jun., was born at Rehoboth, September 29, 1654. He married, first, Elizabeth, daughter of Rev. Ebenezer Williams, who died in 1706 without issue; second, Mary Brintnall, in 1707. He was representative to the General Court in 1694 and 1703, and died in 1710.

Edward Paine, the younger of the two sons of Stephen and Mary (Brintnall) Paine, was born in Rehoboth, Mass., January 22, 1710. His father died March 12 following, and the widow, with her two children, removed to Preston, Conn. At a proper age, he was bound to a farmer. He married April 6, 1732, Lois Kinney, and soon removed to Pomfret, Conn., where he purchased a farm in that part of the town called Abington Society, upon which he lived and died. He was a man of upright character and highly esteemed. His eleven children were all born in Pomfret.

Stephen Paine, third son of Edward Paine, was born January 31, 1746. He removed to Lebanon, Conn., where he gained a valuable estate.

Captain Oliver Payne, eldest son of Stephen Paine, was born in Lebanon, Conn., in 1780. He removed to Norwich, Conn., and from there, in 1813, to Gibson, Susquehanna county, Pa., where he died in 1868. Payne's lake in Susquehanna county derives its name from Captain Payne.

Bester Payne, son of Captain Oliver Payne, was born in Norwich, Conn., April 10, 1810. He removed with his father in 1813 to Gibson, Pa. At that time, that section of the country was a dense wilderness, with a very few inhabitants. He removed to Kingston in 1839, and was widely known through the counties of Luzerne, Bradford, Columbia, Susquehanna, and Wyoming as a lead water pipe layer. Mr. Payne married December 4, 1834, Polly, a daughter of Joseph Pierce, a native of Hasbrook, Sulli-

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van county, N. Y. Her mother died there, leaving her the next to the oldest of six children; her father had died about two years before. She was thus left an orphan at the age of twelve years. By her energy and ability, she was able to maintain and provide for her brothers and sisters, who since have all prospered in life's pathway. Her grandfather was William Pierce, a native of the north of England, who came to this country about 1778. Her mother was Elizabeth Cargell, a daughter of Abram Cargell, a native of Scotland, and his wife, Catharine Hornbeck, a native of Holland. Mrs. Payne married for a second husband Isaac Rice, of Kingston. She is still living, and is in her seventy-fourth year.

Hubbard Bester Payne is the only child of the late Bester Payne. Until the age of eighteen, Mr. Payne lived at home, working with his father in the lead pipe manufactory, or by the day for the farmers of his neighborhood, or attending the schools in Kingston. He prepared for college at the Wyoming Seminary, Kingston, and in August, 1857, entered the Wesleyan University at Middletown, Conn. There his life struggles really began. The means of his parents being limited, he sought to aid them, and, during his college course, taught a district school for three successive winter terms of eighteen weeks, at Rocky Hill, Hartford county, Conn., keeping up his studies at the same time. In college, he took an active part in the literary societies. He was a member of the Psi Upsilon Secret Society and of the Pythologian Society, and by the faculty he was chosen a member of the Phi Beta Kappa Society. In June, 1861, he graduated, standing number four in his class. In August following his graduation, Mr. Payne entered the office of the late Charles Denison, of Wilkes-Barre (afterwards a member of congress for three terms), as a law student. While pursuing his legal reading, he taught a district school during the winter of 1861 in Cinder alley, Wilkes-Barre, and a public school of boys in a store-room of the Hillard block during the winter of 1862. He was admitted to the bar of Luzerne county August 20, 1863, and at once secured a desk in the office of the late Winthrop W. Ketcham, then solicitor of the United States Court of Claims, and entered upon that struggle known only to a young lawyer who, without means or influential friends, attempts to build up a practice. With the closest atten-

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tion to business, and with a strong determination to deserve success, it was yet four years before his income equalled his expenses, small though they were. But as they invariably do, industry, integrity and frugality prevailed finally, and with Mr. Payne it became a question, not how to get business, but how to attend to what he had, and his practice since has been lucrative and successful. Politically, Mr. Payne has been from the first a decided, active and outspoken Republican. Beginning with the presidential campaign of 1864, he has since taken an active part for his party in local and general elections, working on committees and publicly addressing the people. In 1874, he was nominated without opposition for the State Senate in the twenty-first senatorial district, and elected by a majority of 1045. Jasper B. Stark was his Democratic opponent. During his term in the senate, he was active in the business of the session, serving on the committees on "judiciary general," "judiciary local," "mines and mining," and "new counties." He was chairman of the two last named committees. While in the senate, he introduced an act to secure to children the benefits of an elementary education. It provided "that all parents and those who have the legal charge of children shall instruct or cause them to be instructed in spelling, reading, writing, English grammar, geography, arithmetic, and the history of the United States of America. And every parent, guardian, or other person having legal charge of any child between the ages of eight and fourteen years, shall cause such child to attend some public or private day school at least sixteen weeks in each year, eight weeks at least of which attendance shall be consecutive, or to be instructed regularly at home at least sixteen weeks in each year" in the branches named above; and "any parent, guardian, or child, who shall at any time show to the board of school directors of the town, borough, or city in which said child shall live, that the labor and services of said child for the time being are absolutely necessary for the support and maintenance of such child, parent, brother, sister, etc., such board of school directors to which such fact shall be properly shown are hereby authorized to relieve such child from the operation of the act." The bill was reported favorably, and subsequently was re-committed to the committee on education, and

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allowed to rest there because of the fear the issue might assume a political aspect. The popularity of the act is shown by the fact that one of the planks in the platform of the State labor convention, held at Philadelphia, August 28, 1882, reads as follows: "That education be made compulsory, and that elementary and fundamental principles of political economy be taught in all grammar and higher classes of the public schools, and the prohibition of children in work shops, mines and factories, before attaining the age of fourteen years."

Mr. Payne had passed while in the senate "An act to authorize the judges of the several courts throughout the commonwealth to fix the number of the regular terms of the said several courts, and the term for holding the same, the term for summoning the grand jury, and for the returns of constables, aldermen, and justices of the peace to the same." This bill is of vast importance in the administration of justice, and enables the grand jury to sit in advance of the criminal court, and thus enable the district attorney to give his undivided time to the trial of cases in court. Another act he had passed was one "to exempt pianos, melodeons, and organs leased or hired, from levy, or sale, on execution, or distress for rent." The above shows the spirit of Mr. Payne in legislating for the benefit of the people. It is not too much to say that no senator was more active in his work than Mr. Payne, and none spent a greater portion of his time in attending to legislative duties than he. In 1876, Mr. Payne was nominated without opposition for Congress in the twelfth congressional district of Pennsylvania, and at the time of his nomination had every prospect of election. Edgar L. Merriman was his opponent, but died during the campaign. Hendrick B. Wright was then nominated by the democratic and greenback parties, and Mr. Payne was defeated. The vote stood: for Colonel Wright, 13,557; Mr. Payne, 12,101.

In 1880, Mr. Payne was nominated without opposition again for one of the law judges of Luzerne county, but was defeated by Stanley Woodward, the vote being: Woodward (democrat), 12,234; Payne (republican), 11,058; Ricketts (greenbacker), 470.

For many years Mr. Payne has been an active member of the Presbyterian Church of Kingston, and he is now serving his

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twenty-first year as superintendent of its Sabbath school. He has been a ruling elder in the same church for seven years. He has also been active as a freemason, and is now a past master by service in the Kingston lodge. He has also served two years as district deputy grand master for the district of Luzerne county. In 1883, he was one of the vice-presidents of the Pennsylvania Sunday School Association. For three years, he was one of the examiners to examine students for admission to the Luzerne county bar. He was a director in the Miners' Savings Bank of Wilkes-Barre for ten years. Mr. Payne is also one of the trustees, under the will of the late Isaac S. Osterhout, of the "Osterhout Free Library."

Mr. Payne married February 22, 1865, Elizabeth Lee Smith, an only daughter of Draper Smith, of Plymouth, Pa. From this union four children have been born, three of whom are now living—a daughter, Louisa S. Payne, and two sons, Hubbard B. and Paul D. Payne. Mr. Smith is a native of Eaton, Luzerne (now Wyoming) county, where he was born November 7, 1815. He has resided in Plymouth since 1832. The father of Draper Smith was Newton Smith, sen., who was born in New London, Conn., February 27, 1772, and died at Wyoming, Genessee county, N. Y., October 28, 1838. William Smith, the father of Newton Smith, was a soldier in the Revolutionary war, and during the Wyoming troubles was driven away by the Indians. He died from exposure during his escape. His widow subsequently became the second wife of Dr. William Hooker Smith, and this at a time when Newton Smith, sen., was but seven years of age. The mother of Mrs. Payne was Caroline, a daughter of the late John Smith, long a resident of Plymouth, and a pioneer in the coal trade.

In any event, Mr. Payne would have achieved success in the legal profession, by reason of his conscientious care and industry in the prosecution of the causes of his clients. These are qualities that are of greater moment in the ordinary conflicts of life than mere talent, which alone can do little when it lacks their assistance. Time was when lawyers were held to be great or mediocre according as they had genius as orators or were without it, or according as they were skillful in the arts and

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tricks which constitute the displays of the profession in open court; but in these more practical days a much fairer test, and the one more frequently relied upon, is the degree of devotion and honest energy brought to bear in preparing a case and ascertaining its exact relation to the law and the equities. This sort of practice will not avail to save the murderer from the hangman or secure the property of one to the profit of another, but it is the sort that honest men seek, and that in the long run not only brings the practioner the greatest pecuniary rewards, but sheds upon his name and fame the brightest lustre. Mr. Payne's christian ancestry, his own religious training and inclinations, his self-reliance, and sympathy for the conscientious struggler, developed by his being thrown so early in life wholly upon his own resources, have given him that reputation which impels litigants who have just causes to seek his intercession with the adjudicators of the law, and in such a clientage there is not only, as we have said, replenishment for the purse, but satisfaction for the heart. It is the qualities named, too, that have commended him so to those of his political faith that they have showered honors upon him frequently. It falls to the lot of but few men at his age to have been chosen to represent his fellow citizens in the highest law making body of the state, and to have been subsequently pressed in quick succession for a seat in the federal congress and a high position upon the judicial bench. That he was not chosen to the latter positions was due solely to the fact that a majority of the voters were of a different way of thinking politically, and the contest in each instance turned upon political issues.

Mr. Payne served his fellow citizens acceptably and faithfully in the position to which he was elected, and would have acquitted himself with equal acceptance in the others had it been his party's good fortune to have commanded the support of a majority of the voters. He is a gentleman of fine literary taste and culture as well, and a pleasant conversationalist and companion. He manages to find leisure, as above indicated, to labor outside of his profession, and often is called upon to lecture upon practical, moral and religious subjects.

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Court of Common Pleas of Luzerne County.

R. PALMER *v.* COLE *et al.*

A non-resident execution creditor who is defendant in a sheriff's interpleader issue cannot be required to give security for costs, where the affidavit upon which the motion is based shows nothing which would in the first instance cast the burden of proof on the defendant in the issue.

Rule to show cause why the defendants should not give security for costs.

The opinion of the court was delivered February 4, 1884, by

RICE, P. J.—The question is whether a non-resident execution creditor, who is a defendant in a sheriff's interpleader issue, can be required under our rule (Rule X., sec. 3) to give security for costs. We think he cannot, for the reason that the claimant is the real as well as nominal plaintiff in the issue (Tremont Coal Co. *v.* Manley, 10 Smith, 384), and we find nothing in the affidavit which would on the trial, and in the first instance, cast the burden of proof on the defendants. The case at first relied on (Goss & Phillips Manufacturing Co. *v.* Gerhard, 7 W. N. C. 51) by the plaintiff in the present application seems to be an authority against rather than in her favor.

The rule is discharged.

T. H. Atherton, Esq., for plaintiff.

W. S. McLean, Esq., for defendants.

William Mercer Shoemaker was born in the "old Shoemaker homestead," in Kingston township, Luzerne county, Pa., June 20, 1840. He is the son of the late Hon. Charles Denison Shoemaker, a nephew of Hon. Lazarus Denison Shoemaker and a brother of Robert Charles Shoemaker.

A record of the origin of this old and well known Wyoming valley family, and of its connection with the early history of the valley, has already been given in this series of biographies, and need not be repeated here.

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The subject of the present sketch was educated at Wyoming Seminary and Yale College. After leaving the last named institution, he entered upon the study of the law with the late Hon. Charles Denison and G. Byron Nicholson, and was admitted to the bar of Luzerne county, September 3, 1863. On the 24th of August, 1861, Mr. Shoemaker, having been elected and commissioned second lieutenant of Company L, 92d Regiment of Pennsylvania Volunteers, was mustered as such into the service of the United States, being at the time but just past 21 years of age. The 92d was a mounted regiment, and was known as the 9th Cavalry. A severe course of drill and discipline at Jeffersonville, Ind., fitted it by January, 1862, for active service, when it was ordered to duty at the front on the Green river. From this time on, excepting when retained for a while in Kentucky by request of its legislature and citizens, the 9th was engaged in continuous important and hazardous service. It first distinguished itself in May, 1862, by two brilliant victories over the rebel raider, Morgan, on the 4th and 14th of that month, at Lebanon and Spring Creek respectively. Morgan's activity in that vicinity gave the 9th plenty to do, and it did it gallantly. Its excellent conduct at Perryville, where its losses were heavy, elicited a high compliment in general orders from General Buell. It had numerous engagements in Kentucky, and afterwards participated in the campaign against Bragg in Tennessee, and in the fights at Rover, Middleton, Shelbyville, Elk River, Lafayette, Ga., and at famed Chickamauga. For its strikingly conspicuous daring in the last named conflict, it was again especially complimented, this time by the lamented Thomas. From this time on, it was almost incessantly engaged at one point or another in the southwest, principally under the dashing Kilpatrick, with Sherman in his famous march to the sea, and after Savannah, in the Carolinas, at Black Snake's Station, Averysboro, Bentonville, Hillsboro, and Morrisville, which practically finished the active fighting of the war. The 9th furnished Sherman's escort when he went to meet Johnston to arrange terms for the latter's capitulation. On April 7th, or about two months before Gettysburg, Lieutenant Shoemaker having previously been promoted to the first lieutenancy of his company, and afterwards to the office of

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adjutant of the regiment, was compelled by business reasons to resign his commission, and return home.

He resumed the study of the law, which his entrance into the army had interrupted, and, as already stated, was admitted to the profession about five months later. Mr. Shoemaker never entered into active legal practice, though he passed a very creditable examination, and may be said to be endowed with many of the qualities which insure success in that arena. He had a penchant for the insurance business, in which he soon afterwards engaged with Messrs. Thompson Derr & Bro., and with whom he is still employed as adjuster for the firm. The Derrs may be said to have been the pioneers of the insurance business in this vicinity, and have established one of the most important and successful offices in the country. They do a business covering immense risks, and which extends not only through Luzerne county, but into nearly all the counties of eastern, and especially north-eastern, Pennsylvania. To do the adjusting for so extensive a concern is sufficient to tax the energies of the most vigorous of men to their utmost. Mr. Shoemaker, however, discharges the responsibilities of the position without apparent effort and with unvarying satisfaction to the firm and its numerous patrons. His knowledge of the law is a great aid to him, of course, in the doing of this work.

Mr. Shoemaker has never mixed conspicuously in public affairs, but for his many kindly and companionable qualities is in great demand socially.

On February 6, 1879, he married Ella Schenck Hunt, of Elizabeth, New Jersey. Harold Mercer Shoemaker is their only child.

Mr. Shoemaker might have made a brilliant practitioner at the bar, but has been content with a life of usefulness in another sphere.

We had hoped to have published the Common Pleas Argument List this week, but it is not as yet made up.

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ORPHANS' COURT SALE.

Estate of Mary Culver, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Friday, the 14th day of March, A. D. 1884, at 10 o'clock A. M., the following piece of land, in the township of Ross, bounded on the north by lands of Jacob Ely and Jeremiah Sickler estate, on the east by lands of Henry Long and Hillman Moss, on the south by lands of C. H. Culver, and on the west by lands of Nathan Culver and Warren Hoffman; all improved except about 15 acres in Woodland; containing about 44 acres, together with the appurtenances, a 1½-story frame house, and a small orchard.

TERMS OF SALE.—One-half the purchase money down at the time of sale, balance on confirmation of sale and delivery of deed.

ELISHA CULVER,
DORRANCE & PRICE, Administrator.
Attorneys. 8-10

ORPHANS' COURT SALE.

Estate of William Linden, deceased. By virtue of an order of the Orphans' Court of Luzerne county, to me directed, there will be exposed to public sale by public vendue or outcry, on the premises, in the township of Salem, on Tuesday, March 11, A. D. 1884, at 10 o'clock A. M., all that piece of land in the township of Salem, bounded on the north by public road leading from Berwick to Beach Haven, on the south by extension of Canal street in Berwick, east by lot of Franklin Solt, on the west by lot of Mrs. Reuben Berlin; the lot being 200 feet more or less in depth and 49½ feet more or less in width, on which is erected a 2-story dwelling and outbuildings.

TERMS OF SALE.—$100 down on day of sale, 25 per cent. of balance on confirmation of sale and delivery of deed, balance with interest from confirmation one year from confirmation. Deferred payment to be secured by bond and mortgage on the premises.

F. E. BROCKWAY,
C. B. JACKSON, Administrator.
Attorney. 8-10

ORPHANS' COURT SALE.

Estate of Joseph Hawk, deceased. In pursuance of an order of the Orphans' Court of Luzerne county, the undersigned will sell, at public sale, on the premises, in the village of Conyngham, on Saturday, the 22d day of March, A. D. 1884, at 2 o'clock P. M., all that lot of land in the village of Conyngham, Sugarloaf township, on the west side of the Lehigh & Susquehanna road, No. 15 on the original town plot of the said village of Conyngham, bounded on the south by lot of Amos Shupp, north by land of Catherine Cumins, west by land of Elizabeth Hutton, east by the Lehigh & Susquehanna turnpike; containing about 3 acres of land, on which is erected a 2-story frame dwelling house, stable, barn and other outbuildings, fruit orchard, etc.

TERMS OF SALE.—One-third on day of sale, one-third on confirmation of sale, and balance, with interest from confirmation of sale, within six months from day of sale. Deferred payments to be secured by bond and mortgage.

GEORGE W. DRUM,
A. R. BRUNDAGE, Administrator.
Attorney. 8-10

ORPHANS' COURT SALE.

Estate of Solomon Yost, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, in the township of Sugarloaf, in said county, on Tuesday, March 18, 1884, at 2 o'clock P M., all that tract of land, in the township of Sugarloaf, beginning at the northerly corner of land of Henry Lawn on line of land of Tobias Schobert, thence 80 8-10 perches to a post and stones, thence 26 4-10 perches to a post and stones on line of land of Drumheller and Raedler; thence by said last named line 98 5-10 perches to a post and stones, a corner also of land of Charles Brown; thence by line of Brown 44 perches to a post corner, being als a corner of Jacob Breithaupt; thence by line of land of Breithaupt 40 perches to a post corner, thence still by line of Jacob Breithaupt 60 perches to a post corner, thence by line still of Jacob Breithaupt 24 perches to a corner of William Walp, thence by line of land of William Walp 61 3-10 perches to a stone corner (the stone being buried) in the southerly side of the public road leading from the Berwick and Hazleton turnpike to Drum's post office, thence along the southerly side or portion of said public road 163 9-10 perches to a stone (buried) in the southerly side of said public road at an angle of said road and on line of Henry Lawn aforesaid, thence by line of land of said Henry Lawn 99 8-10 perches to the place of beginning; containing 133 acres and 119 perches strict measure; about 77 acres thereof improved, with a 1½-story frame dwelling houses thereon, 2 barns, and other outbuildings, and an apple orchard of nearly 4 acres thereon.

TERMS OF SALE.—Ten per cent. of the purchase money to be paid on the striking down of the sale, one-third of the balance on confirmation of the sale, one-third on April 1st, 1885, and the remaining one-third on April 1st, 1886, with interest on the whole unpaid balance from confirmation of the sale. Deferred payments to be secured by bond and mortgage on the property.

STEPHEN TURNBACH,
ALEX. FARNHAM, Administrator.
Attorney. 8-10

ORPHANS' COURT SALE.

Estate of Ellen O'Neil, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Monday, March 31, 1884, at 10 o'clock A. M., all that lot of land, in Pittston township, commencing at the corner of lot late of Cornelius O'Neil, deceased, on Tetrick road, thence along said road to a corner on the Pennsylvania Coal Company's railroad, thence down said road to corner of Cornelius O'Neil, dec'd, on said road, thence along the line of lot late of Cornelius O'Neil, deceased, to the place of beginning, with one 1-story frame dwelling house thereon.

TERMS OF SALE.—Fifty dollars down, balance on confirmation of sale and delivery of deed.

CATHERINE SHEA,
JOHN T. LENAHAN, Administratrix.
Attorney. 10-12

ORPHANS' COURT SALE.

Estate of Cornelius O'Neil, deceased. By an order of the Orphans' Court of Luzerne county, the administratrix of said decedent will expose to public sale in due form, at the Arbitration Room, in the Court House, on Monday, March 31, 1884, at 10 o'clock A. M., all that lot of land, in Pittston township, beginning at a corner of lot of the heirs of Peter Carroll, deceased, thence along the old Tetrich road to a corner near the empty track of the Pennsylvania railroad, thence along said railroad to a corner of lot of the heirs of Peter Carroll, deceased, it being the corner in the rear of said lot and along heirs of Peter Carroll, deceased, to the place of beginning; containing one-fourth of an acre, be the same more or less; no improvements whatever thereon.

TERMS OF SALE.—Fifty dollars paid down at time of sale, and the balance on confirmation of sale and delivery of deed.

CATHERINE SHEA,
JOHN T. LENAHAN, Administratrix.
Attorney. 10-12

ESTATE OF R. J. WISNER, LATE OF WEST Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

THEODORE STRONG,
CHARLES H. FOSTER,
J. A. WISNER,
G. S. FERRIS, Pittston, Pa.
Attorney. 5-10

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ESTATE OF HENRY KROPP, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH KROPP,

L. D. SHOEMAKER, Wilkes-Barre, Pa.
Attorney. 5-10

ESTATE OF MILES SWEENEY, LATE OF Jenkins township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE SWEENEY,

6-11 Pittston, Pa.

ESTATE OF LEWIS FREDERICK, LATE OF Sugarloaf township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

RACHEL FREDERICK,

7-12 Conyngham, Pa.

ESTATE OF FERDINAND BRUNE, LATE of West Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH D. BRUNE,

GEO. S. FERRIS, West Pittston, Pa.
Attorney. 6-11

ESTATE OF JACOB OCKSENREIDER, LATE of Sugarloaf township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

REUBEN E. OCKSENREIDER,

7-12 Deringer, Pa.

ESTATE OF JOSEPH HAWK, LATE OF Sugarloaf township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEO. W. DRUM,

A. R. BRUNDAGE, Conyngham, Pa.
Attorney. 7-12

ESTATE OF JAMES BOYD, JR., LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. G. WEAVER,
JAMES BOYD, SR.,

J. L. LENAHAN, Wilkes-Barre, Pa.
Attorney. 5-10

ESTATE OF SARAH R. SLOCUM, LATE OF Kingston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY E. SLOCUM,
ABRAM NESBIT,
GEO. S. BENNETT,

10-15 Wilkes-Barre, Pa.

ESTATE OF DELPHINE E. VER PLANK, late of West Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SAMUEL P. FENN,

G. S. FERRIS, Pittston, Pa.
Attorney. 5-10

ESTATE OF PATRICK BRADLEY, LATE OF Plymouth township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

J. W. SHELLHAMMER,

W. S. McLEAN, Plymouth, Pa.
Attorney. 8-13

ESTATE OF L. H. STEELE, LATE OF PLYmouth, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

S. A. STEELE,

7-12 Plymouth, Pa.

ESTATE OF PATRICK McNALLY, LATE OF Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN J. COGGINS,

JOHN T. LENAHAN, Pittston, Pa.
Attorney. 10-15

ESTATE OF HENRY LAUN, LATE OF Sugarloaf township, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CAROLINE LAUN,

BENNETT & NICHOLS, Seybertsville, Pa.
Attorneys. 8-13

ESTATE OF WASHINGTON LEE, LATE OF Nanticoke, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

PRISCILLA L. BENNETT,

E. P. & J. V. DARLING, Wilkes-Barre, Pa.
Attorneys. 9-14

ESTATE OF HELEN A. BRYANT, LATE OF Blakely borough, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

S. B. STURDEVANT,

BENNETT & NICHOLS, Wilkes-Barre, Pa.
Attorneys. 9-14

ESTATE OF ELIZABETH WILLIAMS, LATE of Plains township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

THOMAS E. LEWIS,

W. S. McLEAN, Plains, Pa.
Attorney. 9-14

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ESTATE OF JAMES McNEAL, LATE OF Salem township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARVEY McNEAL,
9-14 Plains, Pa.

ESTATE OF BERNARD NEVIN, LATE OF Ashley, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EDWARD P. NEVIN,
9-14 Ashley, Pa.

ESTATE OF PHOEBE HANZ, LATE OF Black Creek township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. R. HANZ,
9-14 Seybertsville, Pa.

ESTATE OF RHODA A. HARRISON, LATE of Union township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOSEPH H. HARRISON,
10-15 Muhlenburg, Pa.

ESTATE OF JONAS LONG, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

PAULINA LONG,
S. J. STRAUSS, Wilkes-Barre, Pa.
Attorney. 6-11

ESTATE OF ARAMINDA CRAWFORD, LATE of Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

B. G. CRAWFORD,
B. M. ESPY, Wilkes-Barre, Pa.
Attorney. 6-11

ESTATE OF HUGH MURRAY, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELIZABETH MURRAY,
8-13 Wilkes-Barre, Pa.

NOTICE IS HEREBY GIVEN, THAT, IN accordance with the resolution of the Board of Directors, there will be a meeting of the Stockholders of the Glen Summit Hotel and Land Company held at the office of the Lehigh Valley Coal Company, Wilkes-Barre, Pa., on Wednesday, 23d April, 1884, at 2 o'clock P. M., to consider the question of issuing bonds and mortgage upon the franchises and property of the company for the purpose of completing the hotel, furnishing the same, etc., and for such other business as may come before the meeting.

By order of the Board of Directors.

ANDREW H. McCLINTOCK,
7-16 Secretary.

ESTATE OF JOHN J. HUMMELL, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARGARET A. HUMMELL,
A. RICKETTS, Wilkes-Barre, Pa.
Attorney. 7-12

ESTATE OF PHILEMON SANTEE, LATE OF Sugarloaf township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. W. SANTEE,
10-15 Seybertsville, Pa.

ESTATES TO BE AUDITED BY THE Orphans' Court of Luzerne county. Notice is hereby given that accounts have been filed and confirmed absolutely by the court in the following estates:

1. P. M. Goodwin; A. Goodwin, Jr., Executor; 10th March, 1884.

2. Catharine Steger; William Kauffman, Administrator; 11th March, 1884.

The accounts enumerated and designated in the above list will be audited by the court, in the Court House, in the Orphans' Court room, during the session of court on the days set forth opposite the name of each estate, at which time all persons interested shall attend, if they see fit, and present their claims against said estate, or forever thereafter be debarred from coming upon said fund.

JOSEPH HENDLER,
7-10 Clerk O. C.

THE COMMONWEALTH OF PENNSYLvania, Luzerne county, ss:

{Seal} To Amy A. Simpson, Henry F. Beck, Chas. F. Beck, Louisa O. Beck, Julia M. Beck, Anna L. Beck, and Harwick Beck, children of Antonette Beck, late of Franklin township, Luzerne county, deceased, Greeting:

At the instance of A. J. Frantz, a creditor, you are hereby cited to be and appear before me, Joseph Hendler, Esq., Register for the probate of Wills and granting Letters of Administration in and for the said county, at my office, in the city of Wilkes-Barre, on Tuesday, the 25th day of March, A. D. 1884, at 10 o'clock A. M. of said day, then and there to accept or renounce your right to administer upon the estate of Antonette Beck, who lately died intestate, or in default thereof to show cause, if any you have, why Letters of Administration shall not be granted unto Charles H. Cooke, or some other fit person; hereof fail not.

Given under the hand of the said Joseph Hendler, Esq., and the seal of the said office, at Wilkes-Barre, the 4th day of March, A. D. 1884.

JOSEPH HENDLER, Register.
Per B. M. CRARY, Deputy.

H. B. PAYNE,
Attorney. 10-12

AUDITOR'S NOTICE.

The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county, to report distribution of a fund of $1403.33, paid into court by decree of 19th October, 1883, either to the separate estates of A. D. King and Edward Howell, deceased, or to the representatives or creditors of said estates, or to the creditors of the late firm of Howell & King, as their claims upon the same may be established, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, Wilkes-Barre, on Saturday, March 8, 1884, at 10 o'clock A.M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

THOS. H. ATHERTON,
7-10 Auditor.

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INCORPORATION OF EDWARDS BOROUGH —Notice is hereby given to all persons interested that an application will be made to the Court of Quarter Sessions of Luzerne county, on Monday, March 31st, 1884, at 10 o'clock A. M., by certain citizens and freeholders residing in certain portions of Kingston and Plymouth townships, in said county, asking that said portions of Kingston and Plymouth townships shall be incorporated in a borough.

N. TAYLOR,
H. B. PAYNE,
9-11 Attorneys for Petitioners.

LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 138, January term, 1884. Libel in divorce a vinculo matrimonii. Euphemia McGuire, by her next friend, Mary Ann Davis, *v.* John McGuire. The alias subpoena in the above case having been returned, "That the said John McGuire cannot be found in Luzerne county." You, the said John McGuire, respondent, are required to appear on Monday, May 12, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
M. E. WALKER, Sheriff.
Attorney. 8-11

LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 229, November term, 1883. Libel in divorce a vinculo matrimonii. James A. Fleming *v.* Mary Fleming. The alias subpoena in the above case having been returned, "That the said Mary Fleming cannot be found in Luzerne county." You, the said Mary Fleming, respondent, are required to appear on Monday, May 12, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
B. McMANUS, Sheriff.
Attorney. 7-10

LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 39, January term, 1884. Libel in divorce a vinculo matrimonii. Florence A. Ryman, by her next friend, Andrew Hilbert, v. Marshal Ryman. The alias subpoena in the above case having been returned, "That the said Marshal Ryman cannot be found in Luzerne county." You, the said Marshal Ryman, respondent, are required to appear on Monday, May 12, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
E. D. NICHOLS, Sheriff.
Attorney. 10-13

C. F. BOHAN, a student at law in the office of Garrick M. Harding and John McGahren, will apply at March term, 1884, for admission to practice as an attorney in the several courts of the county of Luzerne. 9-11

CHAS. D. FOSTER,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

WILLIAM S. McLEAN,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

W. S. PARSONS,
ALDERMAN,
WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, MARCH 14, 1884. NO. 11.

Orphans' Court of Luzerne County.

SARAH GUNTON'S ESTATE.

1. A married woman died, leaving a will, and appointed an executor, who renounced. She made her minor grand children residuary legatees, but gave nothing to her surviving husband. The husband refused to accept the provisions of the will, and letters of administration *c. t. a.* were granted to him. On appeal by the guardian of the minors, the Orphans' Court revoked the letters, and directed that they be granted to the nominee of the guardian. *Held*, further, that the second proviso of the 14th section, Act 1832, not only controls and limits the enacting clause, but is also an exception to the first proviso.
2. Where minors are residuary legatees, letters of administration should be granted to the nominee of their guardian.

Appeal from the grant of letters of administration *c. t. a.* by the register.

The opinion of the court was delivered October 27, 1883, by

RHONE, P. J.—This decedent died, leaving a will, and her executor renounced his office, whereupon the will was proved, and letters of administration, with the will annexed, were granted by the register to Richard Gunton, the decedent's surviving husband. The testatrix made her minor grand children general residuary legatees, and bequeathed nothing at all to her husband. At the time of the granting of letters, the said minor children had no guardian, but were represented by their father, who demanded that the letters be granted to him, and he made this appeal, since which time the court has appointed Mr. Livingston guardian, and he now requests that the letters already granted be revoked, and that they be awarded to the father of his wards. The case has been submitted on the evidence taken by the register, which discloses no other material facts.

Under the 18th section of Act, 15th March, 1832, it was the duty of the register to grant letters of administration, with the

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will annexed, "to the person by law entitled thereto." The 14th section of same act makes it the duty of the register, "whenever letters of administration are by law necessary," to grant them "to the widow of any decedent," etc., "*provided* that, if such decedent were a married woman, her husband shall be entitled to the administration in preference to all other persons: *provided further*, that, in all cases of an administration with a will annexed, where there is a general residue of the estate bequeathed, the right to administer shall belong to those having the right to such residue." The 23d section of same act provides for the appointment of an administrator in such cases as this, where all the persons otherwise entitled are minors. The 9th section of Act, 11th April, 1848, provides, "when any married woman, possessed of separate personal property, * * * shall die intestate, her husband shall be first entitled to letters of administration on her estate."

The case then resolves itself into one of a construction of these acts of Assembly, which appears to be new ground. It will be observed that the decedent died intestate as to the husband—that is, she makes no bequest to him, and he, by paper filed, elects to accept the provisions of the Act of 4th May, 1855, under which he takes one-third of her personal estate absolutely. Dickinson *v.* Dickinson, 11 Smith, 401.

Now, suppose the residuary legatees were of full age and otherwise competent to act, ought the letters of administration, with the will annexed, to be granted to them or to the surviving husband? To us there seems little or no doubt that the right belongs to the legatees. We conclude that the second proviso of the 14th section of Act, 1832, not only controls and limits the enacting clause, but is also an exception to the former proviso. "The office of a proviso generally is either to except something from the enacting clause, to qualify or restrain its generality, or to exclude some possible ground of misinterpretation of its extending to cases not intended to be brought within its purview." Potter's Dwarris on Statutes, 118 note. The enacting clause of this section provides for the grant of letters on the estate of an intestate who dies leaving a widow or other kindred; the first proviso provides for the grant of administration, where the intes-

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tate is a married woman, leaving a surviving husband, and in this respect is only repeated in the Act of 1848, while the second proviso provides for still another and distinct class, to wit, where letters are to be granted with a will annexed; the paramount object in each case being to grant the letters to those most interested in preserving the estate. Ellmaker's Estate, 4 Watts, 34. See Report of Commissioners, 2 Rhone, 294, note *a*, showing that the revisers did not consider the second proviso subordinate to the first, but independent of it, and of the enacting clause also.

Again, we think the minority of the legatees makes no difference in their right to have a substitute appointed during their minority. The said 14th section makes no provision for nominees or substitutes, but there are many cases where the appointment of such has been approved. Ellmaker's Estate, supra; Coover's Appeal, 2 Smith, 427; Jones's Appeal, 10 W. N. C. 249, and the Guardian of Minors has a right to nominate; Wood's Appeal, 5 Smith, 332. While the minors had no guardian, it was proper for the register to appoint the surviving husband as a "fit person," under the 23d section of Act, 1832, but under our former conclusions the letters already granted must be now revoked. This court now having all the parties before it, may revoke the letters without sending the case back to the register for a proceeding to be commenced by the guardian. Stoever *v.* Ludwig, 4 S. & R. 201; McCaffrey's Estate, 2 Wright, 331. We will, however, under the circumstances, direct that the costs of this proceeding be paid out of the estate.

And now, to wit, 27th October, 1883, the appeal of James C. Driesbach from the decision of Joseph Hendler, Esq., register of wills, etc., in the matter of granting letters of administration *c. t. a.* in said estate having come on to be heard on the evidence submitted and the argument of counsel, and the same having been duly considered by the court, it is ordered, adjudged, and decreed that the said appeal be sustained, and that the decision of the said register in the matter aforesaid be reversed; and this court, proceeding to make such further order in the premises as to right and justice belong, doth order and direct that the letters of administration, with the will annexed, granted by the register to Richard Gunton be and are hereby revoked, and

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that the said register shall grant such letters to James C. Driesbach, or such other nominee of the guardian of said minor children as shall tender a sufficient bond and sureties, and on his further compliance with the law in that behalf made and provided. The costs of this proceeding, and of the grant of letters heretofore made, to be paid out of the estate of Sarah Gunton, the decedent.

Court of Common Pleas of Schuylkill County.

McCAHAN & COOPER v. GENSEMER & SHERMAN.

Where a partnership is registered, a suit against the partners, not in the firm name, cannot be maintained.

Rule for judgment for want of a sufficient affidavit of defense.

The opinion of the court was delivered February 25, 1884, by

PERSHING, P. J.—The plaintiffs in this case summoned Henry Gensemer and L. G. Sherman as partners constituting the defendant firm. With the affidavit of defense, a plea in abatement was also filed, setting forth that Daniel Gensemer, residing within the jurisdiction of the court, was a partner of the two others named, and jointly liable with them, although not joined by the plaintiffs in their action. This plea was accompanied by evidence that Henry Gensemer, L. G. Sherman and Daniel Gensemer had, on April 7, 1877, filed in the office of the prothonotary the names of the several partners constituting the firm of Gensemer & Sherman, and the location where they did business, viz., in Pine Grove, Schuylkill county. The Act of April 13, 1851 (Purd. Dig. 1119), relating to the registration of partnerships, appears to have been fully complied with.

Notwithstanding the pendency of the plea in abatement, the counsel for the plaintiffs contends that they are entitled to a judgment for want of a sufficient affidavit of defense. It is not necessary to discuss a position so untenable. The facts are referred to so that our decision may not be understood as being based on the sufficiency of the affidavit. It is not properly before us.

And now, February 25, 1884, rule discharged.

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ORPHANS' COURT ARGUMENT LIST.

SATURDAY, MARCH 29, 1884.

1	In Re Estate of Araminda S. Rogers, deceased	Nichols, T. H. B., L	Exceptions to final account of Guardian.
2	In Re Estate of Darius L. Myers, deceased	Nichols, T. H. B., L	Exceptions to final account of Guardian.
3	In Re Estate of Amzi Wilson, deceased	Burr, L.	Exceptions to account of Executors.
4	In Re Estate of William Brace, deceased	Atherton, Jenkins	Exceptions to report of Audit.
5	In Re Estate of Anthony Benscoter, deceased	Gates	Exceptions to widow's appraisement.
6	In Re Estate of Anthony Cuff, deceased	C., Lenahan	Exceptions to partial account of Administrator.
7	In Re Estate of James Guest, deceased	Lynch, Powell	Exceptions to report of Examiner.
8	In Re Estate of Edward Boyle, deceased	C., Lenahan	Exceptions to final account of Guardian.

QUARTER SESSIONS ARGUMENT LIST.

MONDAY, MARCH 31, 1884.

1	In Re Road in Newport Township	McL. & J., Darlings, Hines	Exceptions to report of viewers.
2	In Re Commonwealth v. R. H. Holgate et al		Why Holgate and Ridgway shall not be discharged from payment of costs.
3	In Re Private Road in Kingston Township		Exceptions to report of viewers
4	In Re Road in Conyngham Township	McLean, Brundage	Exceptions to report of reviewers.
5	In Re Road in Plains Township	Patrick, McClintock	Exceptions to report of reviewers.
6	In Re Road in Dallas		Exceptions to report of reviewers.
7	In Re Road in Huntington Township	Hand	Exceptions to report of viewers.
8	In Re Delaware Street, City of Wilkes-Barre		To set aside confirmation of report.
9	In Re Commonwealth v. David P. Jones et al.	J. L., J.	To quash indictment.
10	In Re Commonwealth v. C. W. Yaple	J. L., E. S. O., McG	For new trial.
11	In Re Commonwealth v. Gouerny		To take off forfeiture of bail.
12	In Re Inquest on body of Thomas Peters	McLean	To strike off approval of inquest.
13	In Re Inquest on body of Thomas Peters	McLean	For approval of inquest.
14	In Re New Columbus v. Huntington Township	Lynch, Gates	On Huntington Township to pay expenses, &c.
15	Commonwealth v. Matthew John	Gates, Atherton	To revoke decree.
16	Commonwealth v. Elijah Moore	Gates, McGahren	For new trial.

ESTATE OF FERDINAND BRUNE, LATE of West Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH D. BRUNE,
West Pittston, Pa.

GEO. S. FERRIS,
Attorney. 6-11

ESTATE OF JONAS LONG, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

PAULINA LONG,
Wilkes-Barre, Pa.

S. J. STRAUSS,
Attorney. 6-11

ESTATE OF ARAMINDA CRAWFORD, LATE of Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

B. G. CRAWFORD,
Wilkes-Barre, Pa.

B. M. ESPY,
Attorney. 6-11

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COMMON PLEAS ARGUMENT LIST.

TUESDAY, APRIL 1, 1884.

NO.	PLAINTIFFS' ATTORNEYS.	PLAINTIFFS.	DEFENDANTS.	DEFENDANTS' ATTORNEYS.	RULE.
1	C. B. Jackson, Farnham	Seth B. Bowman	Daniel F. Seybert	Ricketts	For new trial.
2	Ferris	Andrew Bryden	Sheble & Hill	Sturges, Lamb	For new trial.
3	L.	A. Watt & Co	T. B. Hart	R	For new trial.
4		Sumner, Reed, Williams & Co	Paul Sucharski et al	Strauss, P	For new trial.
5	J. L. L	John Martin	C. Strauser et al	Gates	For new trial.
6	J. L. L	Edward Sweeny	Charles Strauser et al	Gates	For new trial.
7	Payne	Rice & Brother	Charles Smith	Foster	For new trial.
8	Gates	H. Bonham	Borough of Plymouth	McAlarney	For new trial.
9	Farnham	In Re Assignment of	John Stuart	Robinson	Exceptions to Auditor's report.
10		In Re Shff's Sale of P. P. of	G. S. Burgan		Exceptions to Auditor's report.
11	Payne	S. D. Yost	John L. Brown	Harding, McG., B	Exceptions to Referee's report.
12	Martin	Grace Gribben	Plymouth Coal Co	Halsey, Shonk	Exceptions to Referee's report.
13	J., E. A. L	Elsy Adams, dec'd	William Hauze et al	Darte	Exceptions to Referee's report.
14	A. H. McClintock	William Hoyt et al	W. D. Brown et al		Exceptions to Referee's report.
15	Hahn, Bedford	Hartford Fire Ins. Co	H. Oppenheimer	Brundage, Strauss	Exceptions to decision of court.
16	Hines, B	William Case	Adam Scheidel	McLean	Bill and answer.
17	Hines, B	John W. Fenner et al	Crystal Spring Water Co	Palmer, Dewitt & Fuller	Demurrer.
18	Strauss	H. Lowenstein	John K. Keller	M.	Exceptions to answer of defendant.
19	Farnham	In Re Assignment of John	Stuart for ben't of creditors		To open partial account of Assignee, &c.
20	Miller	W. P. Kirkendall	W. H. Williams et al	Osborne	To open judgment.
21	Robinson	C. A. Zeigler, Ad.	Fred. Reufer	B. & N	To open judgment.
22	Robinson	C. A. Zeigler, Ad.	Fred. Reufer	B. & N	To open judgment.
23	Darlings	Use of John M. Ward	Henry Zeigler et al		To open judgment as to all except $30.
24	Connollys	Patrick McCann	Excelsior Building Asso	T. F. W	To revoke appointment of sequestrator.
25	Farnham	Henry Lutz, assigned	W. & P. Cordner		To strike off judgment.
26	Foster	P. H. Tuska	Ig Freeman & Co	Brundage	To open judgment.
27	Halsey	James V. Connor	W. L. Paine	Bedford	To open judgment.
28	Halsey	William Jones	T. J. O'Malley	McGahren	To enter appeal nunc. pro tunc.
29		Richard Jones	James Bevan	J. L	To quash writ &c.
30	Farnham	Robert Oliver	F. Brune, dec'd	Ferris	Plea in abatement.

WEDNESDAY, APRIL 2, 1884.

31		Use of M. C. Earley	Borough of Pleasant Valley	McGahren	For assignment of $150.
32	R. & L	Thompson & Kersey	Sallie H. Owen et al	Payne, Darlings, L	To strike off judgment, &c.
33	R. & L	Maria Street	K. R. Owen et al	Payne, Darlings, L	To strike off judgment, &c.
34	Ferris	C. L. McMillan, Assignee	Phoebe A. McNeish	Lynch	To open judgment.
35	Hahn	F. C. Pilger	John Jones	Martin	To open judgment.
36	F. C. S	Use of Pa School Sup. Co.	School Dist. of Denison Tp	Osborne, Halsey	To stay mandamus execution.
37	Mosier	Charlotte Benedict, dec'd	John W. Benedict		To open judgment.
38	J. L. L	James Casey et ux	Pennsylvania Railroad Co	P., D. & F	To strike off appeal.
39	G. M. L	J. E. Patterson, assigned	Pittston Knitting Co	Ferris	To open judgment.
40	Lamb	E. L. Dlefenderfer	Owen Caffrey, dec'd	McG	To strike off appeal.

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41	E. A. L., M. Manus	E. C. Tirrkatt	Thomas P. Morgan, dec'd	Kline, R	For st toff.
42	McAlarney	Monroe Curtis	L. J. Vandermark	Hakes	To open judgment.
43	Lamb	J. C. Morris	George Sickler	Gates	To strike off appeal.
44	S	Katie McAnany	Henry Saunders et al		To open judgment.
45	J. & Son	Henry Kindig	Samantha Crevelling et al	Troutman	To open judgment.
46	M	L. J. Fogle & Co	John R Davis	Opp	To permit appeal nunc. pro tunc.
47	J. T. L	William Bayless	Reginald T. Hylton	Opp	To open judgment as to all except $84.
48	D & A	Use of First Nat. Bank, P	Alva Tompkins	Osborne	To open judgment, &c.
49	J. L. L	Simeon R. King	William Wall	Gates	To strike off appeal.
50	Kisner	West Hazleton B. & L. As	J. B. Brennan et al	W	For subrogation
51	McL. & J., P. & Son	Calvin Hallock, dec'd	W. O. Ferrell et al	Martin	For subrogation.
52	Martin	T. B. Coolahan	A. B. Rommell	Gates	To enter appeal nunc. pro tunc.
53	C	Harry F. Jones	James McCallick	McLean	To enter appeal nunc. pro tunc.
54	T., J. T. L	Hayes, Field & Co	George S. Burgan	C	To discharge attachment.
55	Darte	Charles Pike, dec'd	Jacob Kocher		To enter appeal nunc. pro tunc.
56		Thomas Voyle	David H. Thomas	F. C. S	To open judgment
57	Powell	P. M. Goodwin, dec'd	Patrick Tolan et al	S	On Sheriff to pay money.
58	Mosier	Karl Knopp	D., L. & W. Railroad Co	McClintock, Palmer	To strike off appeal.
59		H. P. B. & L. Asso	L. M. Bunnell	T	To open judgment.
60	Troutman	Susan Ann Smyth	James Smith		For alimony, &c.

THURSDAY, APRIL 3, 1884.

61	Ricketts	Borough of West Pittston	L. W. Crawford	Ferris	To strike off judgment.
62	McL., G	L. & C. Wise	Frauenthal Bros.	T	To take judg't for want of suffi't affid't of defense.
63	Gates	E. E. Thomas	E. E. Hendricks	Farnham	To set aside inquisition.
64	Palmer, Dewitt & Fuller	E. V. DeWitt	Jonas Searfoss	H. & B	To commence second ejectment.
65	Palmer, Dewitt & Fuller	E. V. DeWitt	Jonas Searfoss	H. & B	To commence second ejectment.
66	F., W	H. H. Welles, Assignee	John Davis		To set aside Sheriff's sale.
67	Coughlin	F. M. Lewis	B. M. Blish	Lynch	To strike off appeal.
68	J. L. L	T. T. Miller	John Kline		To strike off appeal.
69	Ricketts, T	J. M. Armstrong et ux.	John Collins	K	To amend record.
70	Bedford	G. R. Bedford, Trustee	Calvin Wadhams	G. M. L	To set aside Sheriff's sale.
71		N. Borneisen, assigned	James McCartney et al		For subrogation.
72		Guernsey Bros.	Matthews & West	Ferris	To enter appeal nunc. pro tunc.
73	Mosier, S	J. B. Mosier, Assignee	Joseph Brezee et al	B. & N	To open judgment.
74	Ricketts	William Royer	C. M. Swazey	P., D. & F	To stay prosecution.
75	Miller	S. Myers & Co	H Hoffheimer	Coons	To dissolve attachment.
76	R. & S	Carhart, Whitford & Co	H. Hoffheimer	Coons	To dissolve attachment.
77		Lewis Raffell	A. Schwartz	J L. L	To withdraw bail.
78	McLean	Wallace, Elliott & Co	David Shackman	Strauss	To dissolve attachment.
79	T., J. T. L	Hayes, Field & Co	George S. Burgan	C	
80	Magee	Henry Gribble	Caroline Gribble	Shonk	For alimony.
81	Ferris	M. E. Church, W. P.	W. D. Barnes et al	Butler	To show cause of action.
82	M	Hiram Booth	Daniel McAlister		To reverse proceedings.
83	M	Hiram Booth	Joseph Stratix		To reverse proceedings.
84		Henry Gwyllym	Plymouth Coal Co.	Shonk	For mandamus.
85		Petition of Sec. School Dist.	City of Wilkes-Barre		For attachment.
86	S	Freas Bros. & Thornton	Levi Kishbauch	Osborne	To strike off appeal.
87	Troutman	Hazleton B. L. & T. Asso	Michael Ryon et ux	Foster, Martin	To open judgment.
88	H. & P	M. C. Palmer & Co	Hinsdell & Hughes	Powell	To open judgment.

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THURSDAY, APRIL 3, 1884—CONCLUDED.

NO.	PLAINTIFFS' ATTORNEYS.	PLAINTIFFS.	DEFENDANTS.	DEFENDANTS' ATTORNEYS.	RULE.
89	H. & P.	M. C. Palmer & Co	Hinsdell & Hughes	Powell	To open judgment.
90	H. & P.	M. C. Palmer & Co	Hinsdell & Hughes	Powell	To open judgment.
91		In Re Shff's Sale of P. P. of	Max Knoll		Exceptions to Auditor's report.
92	Ryman	C. A. Spencer	John Perry et al		To pay judgment.

COMMON PLEAS CERTIORARI LIST.

MONDAY, MARCH 31, 1884.

NO.	PLAINTIFFS' ATTORNEYS.	PLAINTIFFS.	DEFENDANTS.	DEFENDANTS' ATTORNEYS.	
1	Lenahan	J. F. Donohue	S. L. Brown	McCartney	Certiorari.
2	Farnham	David Natrath	Daniel Mulherin		Certiorari.
3	B. & N.	Wm. Moore & Co	Ira B. Wolfinger		Certiorari.
4	Hines	Thomas H. Bond	John H. Hetler		Certiorari.
5	J. L. L.	John Keeley	Peter Wentell		Certiorari.
6	J. T. L.	Ann Derrick	William J. Johnson	Ferris	Certiorari.
7	Hayes	I. Reforwich	William Bolinskee		Certiorari.
8	P.	W. K. Warman	Thomas R. Thomas	T.	Certiorari.
9	P.	Mrs Elizabeth Carey	Thomas R. Thomas	T.	Certiorari.
10	P.	John Lehr	Thomas R. Thomas	T.	Certiorari.
11	McG.	W. Hayes et al	The Commonwealth	M.	Certiorari.
12	Strauss	B. Breakstone et al	Isaac Rice		Certiorari.
13	J.	Benjamin Armstrong	George Sager		Certiorari.
14	Troutman	Samantha Crevelling et al	Henry Kendig		Certiorari.
15		Jefferson Arnold	Ephraim Gregory		Certiorari.
16	B. & N.	James McGinty et al	J. J. Smythe	L.	Certiorari.
17	J. L. L.	Hugh Logue	Com. ex rel. McCarrick		Certiorari.
18	M.	Hiram Booth	Joseph Stranix		Certiorari.
19	Gates	David McDaniels	S. & S. Turnpike Co.	Troutman	Certiorari.
20	J. T. L.	John Brown	John Thomas		Certiorari.
21	Fuller	Wilkes-Barre Gas Co	Jacob Stern		Certiorari.
22	H., McG.	J. M. Caffrey, Ad., et al	C. A. Zeigler		Certiorari.
23	J. L. L.	Robert Cronan	John H. Harris		Certiorari.
24	C.	William Dixon	H. S. Van Sice		Certiorari.
25	J. L. L.	Thomas Lyons	William Jones		Certiorari.
26		Jacob Reese et ux	Moritz Engle		Certiorari.
27		H. A. Kline	Max Keiser		Certiorari.
28	Brundage	Martin Specht	Francis Shafer		Certiorari.
29	Shonk	George H. Davis	G. L. Baldwin		Certiorari.
30	Hayes	B. Frank Miller	Jos. Woodring		Certiorari.
31	Gates	Thomas Farrell	Patrick Mooney		Certiorari.

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ORPHANS' COURT SALE.

Estate of Ellen O'Neil, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Monday, March 31, 1884, at 10 o'clock A. M., all that lot of land, in Pittston township, commencing at the corner of lot late of Cornelius O'Neil, deceased, on Tetrick road, thence along said road to a corner on the Pennsylvania Coal Company's railroad, thence down said road to corner of Cornelius O'Neil, dec'd, on said road, thence along the line of lot late of Cornelius O'Neil, deceased, to the place of beginning, with one 1-story frame dwelling house thereon.

TERMS OF SALE.—Fifty dollars down, balance on confirmation of sale and delivery of deed.

CATHERINE SHEA,
JOHN T. LENAHAN, Administratrix.
Attorney. 10-12

ORPHANS' COURT SALE.

Estate of Cornelius O'Neil, deceased. By an order of the Orphans' Court of Luzerne county, the administratrix of said decedent will expose to public sale in due form, at the Arbitration Room, in the Court House, on Monday, March 31, 1884, at 10 o'clock A. M., all that lot of land, in Pittston township, beginning at a corner of lot of the heirs of Peter Carroll, deceased, thence along the old Tetrich road to a corner near the empty track of the Pennsylvania railroad, thence along said railroad to a corner of lot of the heirs of Peter Carroll, deceased, it being the corner in the rear of said lot and along heirs of Peter Carroll, deceased, to the place of beginning; containing one-fourth of an acre, be the same more or less; no improvements whatever thereon.

TERMS OF SALE.—Fifty dollars paid down at time of sale, and the balance on confirmation of sale and delivery of deed.

CATHERINE SHEA,
JOHN T. LENAHAN, Administratrix.
Attorney. 10-12

ORPHANS' COURT SALE.

Estate of Mary Ann Davis, deceased. By virtue of an order of the Orphans' Court of Luzerne county, the undersigned will expose to public sale, at the Arbitration Room, in the Court House, in the city of Wilkes-Barre, on Thursday, the 10th day of April, A. D. 1884, at 10 o'clock A. M., the following valuable real estate, to wit:

1. All the following piece of land, in Kingston township, beginning at a stake and stones on the public road, and running thence 25 perches to a corner near the house, thence 14 perches to a small run, thence 12 4-10 perches to a corner, thence 16 perches to a corner, thence 77 perches to a corner, thence 69 perches to a corner, thence 92 perches to a corner, thence 72 perches to a corner, thence 161 perches to a corner, thence 81 perches to a corner, thence 57 perches to a corner, thence 15 perches to a corner, thence 78 perches to the place of beginning: containing about 103 acres of land more or less; improved, with an old frame house, an old barn, and fruit trees thereon.

2. The surface of all that lot of land, in the city of Wilkes-Barre, beginning at the corner of River and Academy streets, thence along Academy street 355 5-10 feet to a corner, thence 430 feet to a corner, thence 355 5-10 perches to River street, and thence along River street 430 feet to the place of beginning, said premises being known as the Davis Homestead; improved, with an old house and fruit trees thereon. Said premises have been surveyed and laid out into city lots; reserving all coal and other minerals.

3. The surface of all that lot of land, in the city of Wilkes-Barre, beginning at a corner of Academy and River streets, thence 489 5-10 feet to a corner, thence 428 6-10 feet to a corner, thence 494 5-10 feet to River street, and thence along River street 430 feet to the place of beginning, excepting and reserving all coal and other minerals. Said premises have been surveyed and laid out into city lots.

4. The surface of all that lot of land, in the city of Wilkes-Barre, being a part of lot No. 25 in the first division of Wilkes-Barre township, and of No. 6 on return of inquest in partition of the estate of Daniel Downing, deceased, beginning at a corner, thence by land allotted to Samuel Carson and Mary, his wife, 25 7-10 perches to a corner, thence 34 4-10 perches to a corner, thence by Daniel Downing 25 7-10 perches to a corner, and thence 34 4-10 perches to the beginning; containing 5 acres and 46 perches, be the same more or less, excepting and reserving all coal and other minerals. Said premises have been surveyed and laid out into city lots.

5. All the coal and minerals under the surface of those two lots or pieces of land, in the city of Wilkes-Barre, the first beginning at the corner of River and Academy streets, thence along Academy street 355 5-10 feet to a corner, thence 430 feet to a corner, thence 355 5-10 feet to River street, and thence along River street 430 feet to the place of beginning; containing about 3 acres and 55 8-10 perches of coal. The second thereof beginning at a corner of Academy and River streets, thence 489 5-10 feet to a corner, thence 428 6-10 feet to a corner, thence 494 5-10 feet to River street, and thence along River street 430 feet to the place of beginning, excepting and reserving all that portion of the tract conveyed by Joseph Davis to the Lehigh Coal and Navigation Company; containing about 4 acres and 25 perches.

6. All the coal and minerals under the surface of that lot of land, in the city of Wilkes-Barre, beginning at a corner, thence by land allotted to Samuel Carson and Mary, his wife, 25 7-10 perches to a corner, thence 34 4-10 perches to a corner, thence by Daniel Downing 25 7-10 perches to a corner, and thence 34 4-10 perches to the beginning; containing 5 acres and 46 perches more or less, and being a part of lot No. 25 in the first division of Wilkes-Barre township, and of No. 6 of inquest in partition of the estate of Daniel Downing, deceased.

TERMS OF SALE.—One-third of the amount bid down, 50 per centum of the balance on confirmation of sale, and the balance with interest from confirmation six months from the date of such confirmation, when deeds are to be delivered, or the whole balance upon confirmation of sale, and delivery of deed if the purchaser so desires.

ABRAM NESBIT,
GEO. K. POWELL, Administrator, *c. t. a.*
Attorney. 11-13

ESTATE OF ELIZABETH WILLIAMS, LATE of Plains township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

THOMAS E. LEWIS,
W. S. McLEAN, Plains, Pa.
Attorney. 9-14

ESTATE OF JOHN J. HUMMELL, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARGARET A. HUMMELL,
A. RICKETTS, Wilkes-Barre, Pa.
Attorney. 7-12

ESTATE OF SARAH R. SLOCUM, LATE OF Kingston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY E. SLOCUM,
ABRAM NESBIT,
GEO. S. BENNETT,
DICKSON & ATHERTON, Wilkes-Barre, Pa.
Attorneys. 10-15

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ESTATE OF MILES SWEENEY, LATE OF Jenkins township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE SWEENEY,
6-11 Pittston, Pa.

ESTATE OF HELEN A. BRYANT, LATE OF Blakely borough, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

S. B. STURDEVANT,
BENNETT & NICHOLS. Wilkes-Barre, Pa.
Attorneys. 9-14

ESTATE OF JAMES McNEAL, LATE OF Salem township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARVEY McNEAL,
9-14 Plains, Pa.

ESTATE OF JOSEPH HAWK, LATE OF Sugarloaf township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEO. W. DRUM,
A. R. BRUNDAGE, Conyngham, Pa.
Attorney. 7-12

ESTATE OF PATRICK BRADLEY, LATE OF Plymouth township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

J. W. SHELLHAMMER,
W. S. McLEAN, Plymouth, Pa.
Attorney. 8-13

ESTATE OF HENRY LAUN, LATE OF Sugarloaf township, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CAROLINE LAUN,
BENNETT & NICHOLS, Seybertsville, Pa.
Attorneys. 8-13

ESTATE OF WASHINGTON LEE, LATE OF Nanticoke, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

PRISCILLA L. BENNETT,
E. P. & J. V. DARLING, Wilkes-Barre, Pa.
Attorneys. 9-14

ESTATE OF PATRICK McNALLY, LATE OF Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN J. COGGINS,
JOHN T. LENAHAN, Pittston, Pa.
Attorney. 10-15

ESTATE OF PHILEMON SANTEE, LATE OF Sugarloaf township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. W. SANTEE,
10-15 Seybertsville, Pa.

ESTATE OF RHODA A. HARRISON, LATE of Union township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOSEPH H. HARRISON,
10-15 Muhlenburg, Pa.

ESTATE OF BERNARD NEVIN, LATE OF Ashley, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EDWARD P. NEVIN,
9-14 Ashley, Pa.

ESTATE OF PHOEBE HANZ, LATE OF Black Creek township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. R. HANZ,
9-14 Seybertsville, Pa.

ESTATE OF LEWIS FREDERICK, LATE OF Sugarloaf township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

RACHEL FREDERICK,
7-12 Conyngham, Pa.

ESTATE OF JACOB OCKSENREIDER, LATE of Sugarloaf township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

REUBEN E. OCKSENREIDER,
7-12 Deringer, Pa.

ESTATE OF L. H. STEELE, LATE OF PLYmouth, deceased

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

S. A. STEELE,
7-12 Plymouth, Pa.

ESTATE OF HUGH MURRAY, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELIZABETH MURRAY,
8-13 Wilkes-Barre, Pa.

C. F. BOHAN, a student at law in the office of Garrick M. Harding and John McGahren, will apply at March term, 1884, for admission to practice as an attorney in the several courts of the county of Luzerne. 9-11

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ESTATE OF OWEN JONES, LATE OF PLYmouth township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN R. DAVIS,
West Nanticoke, Pa.

D. M. JONES,
Attorney. 11-16

ESTATE OF JOHN GEORGE KOEHLER, late of Nescopeck township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

E. F. KOEHLER,
Kingston, Pa.

11-16

ESTATE OF ISAAC B. TITUS, LATE OF Shickshinny, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE W YOULLS,
Shickshinny, Pa.

M. E. WALKER,
Attorney 11-16

ESTATE OF JOSEPH WILLIAMS, LATE OF Pittston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN W. WILLIAMS,
Pittston, Pa.

GEO. S. FERRIS,
Attorney. 11-16

ESTATE OF THOMAS B. PETERS, LATE OF Plains township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MOSES GRIFFITHS,
Plains, Pa.

D. M. JONES,
Attorney. 11-16

ESTATE OF DAVID N. JONES, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WILLIAM JONES,
Wilkes-Barre, Pa.

11-16

ESTATE OF CATHARINE BURKE, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

M. W. MORRIS,
Pittston, Pa.

11-16

ESTATE OF JUSTUS RIMBACH, LATE OF Sugarloaf township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WILLIAM KAUFFMAN,
Conyngham, Pa.

11-16

NOTICE IS HEREBY GIVEN, THAT, IN accordance with the resolution of the Board of Directors, there will be a meeting of the Stockholders of the Glen Summit Hotel and Land Company held at the office of the Lehigh Valley Coal Company, Wilkes-Barre, Pa., on Wednesday, 23d April, 1884, at 2 o'clock P. M., to consider the question of issuing bonds and mortgage upon the franchises and property of the company for the purpose of completing the hotel, furnishing the same, etc., and for such other business as may come before the meeting.

By order of the Board of Directors.

ANDREW H. McCLINTOCK,
Secretary.

7-16

THE COMMONWEALTH OF PENNSYLvania, Luzerne county, ss:

{Seal} To Amy A. Simpson, Henry F. Beck, Chas. F. Beck, Louisa O. Beck, Julia M. Beck, Anna L. Beck, and Harwick Beck, children of Antonette Beck, late of Franklin township, Luzerne county, deceased, Greeting:

At the instance of A. J. Frantz, a creditor, you are hereby cited to be and appear before me, Joseph Hendler, Esq., Register for the probate of Wills and granting Letters of Administration in and for the said county, at my office, in the city of Wilkes-Barre, on Tuesday, the 25th day of March, A. D. 1884, at 10 o'clock A. M. of said day, then and there to accept or renounce your right to administer upon the estate of Antonette Beck, who lately died intestate, or in default thereof to show cause, if any you have, why Letters of Administration shall not be granted unto Charles H. Cooke, or some other fit person; hereof fail not.

Given under the hand of the said Joseph Hendler, Esq., and the seal of the said office, at Wilkes-Barre, the 4th day of March, A. D. 1884

JOSEPH HENDLER, Register.
Per B. M. CRARY, Deputy.

H. B. PAYNE,
Attorney. 10-12

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 138, January term, 1884. Libel in divorce a vinculo matrimonii. Euphemia McGuire, by her next friend, Mary Ann Davis, *v.* John McGuire. The alias subpoena in the above case having been returned, "That the said John McGuire cannot be found in Luzerne county." You, the said John McGuire, respondent, are required to appear on Monday, May 12, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.

M. E. WALKER,
Attorney. 8-11

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 39, January term, 1884. Libel in divorce a vinculo matrimonii. Florence A. Ryman, by her next friend, Andrew Hilbert, v. Marshal Ryman. The alias subpoena in the above case having been returned, "That the said Marshal Ryman cannot be found in Luzerne county." You, the said Marshal Ryman, respondent, are required to appear on Monday, May 12, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.

E. D. NICHOLS,
Attorney. 10-13

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 630, October term, 1883. Libel in divorce a vinculo matrimonii. Catherine Jones, by her next friend, John Gaynor, *v.* John F. Jones. To John F. Jones—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the subpoena having failed on account of your absence. Returnable on Monday, March 31, 1884, at 10 o'clock A. M.

JOHN T. LENAHAN,
Solicitor.

11-12

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AUDITOR'S NOTICE.

The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county, to report distribution of the fund raised at the suit of A. Whitaker, Trustee, v. J. W. Peck, and now in the hands of said A. Whitaker, Trustee, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, in the city of Wilkes-Barre, on Friday, April 11, 1884, at 10 o'clock A.M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

EDWIN SHORTZ,
11-14 Auditor.

INCORPORATION OF EDWARDS BOROUGH —Notice is hereby given to all persons interested that an application will be made to the Court of Quarter Sessions of Luzerne county, on Monday, March 31st, 1884, at 10 o'clock A. M., by certain citizens and freeholders residing in certain portions of Kingston and Plymouth townships, in said county, asking that said portions of Kingston and Plymouth townships shall be incorporated in a borough.

N. TAYLOR,
H. B. PAYNE,
9-11 Attorneys for Petitioners.

CHAS. D. FOSTER,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

NOTICE IS HEREBY GIVEN, THAT AN application will be made to one of the Judges of the Court of Common Pleas of Luzerne county, under the provisions of the Act of Assembly entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, on Monday, April 21st, 1884, at 10 o'clock A. M., for the incorporation of an intended corporation, to be called "The Welsh Congregational Church," of Nanticoke, Pa., the character and object whereof is to worship God according to the faith, doctrines, discipline, and usages of "The Welsh Congregational Church," and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of said Act of Assembly and its supplements.

W. H. HINES,
11-13 Solicitor.

WILLIAM S. McLEAN,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

W. S. PARSONS,

ALDERMAN,

WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, MARCH 21, 1884. NO. 12.

Orphans' Court of Luzerne County.

NICELY'S ESTATE.

1. A building association was chartered under the act of 1859, and the by-laws contained the 6th section of that act, together with the proviso that the stockholders should sign an agreement "to abide by the provisions of the charter and by-laws." *Held*, that where a borrower seeks to take advantage of his omission to sign such agreement, the burden is upon him or his representatives to show that he did not sign such agreement.

2. A purchased stock in a building and loan association, and obtained a loan upon it, to secure which he gave a judgment note, which was entered of record. He, about five years afterwards, confessed judgment on an amicable *scire facias* on such judgment. After his death, his widow and a junior judgment creditor, alleging a defect in the charter, claimed that the association was only entitled to lawful interest. *Held*, that the judgment so confessed was conclusive in the Orphans' Court in a proceeding for distribution of a real estate fund.

Exceptions to report of audit.

The opinion of the court was delivered March 3, 1884, by

RHONE, P. J.—The only exception relates to the amount due the Shickshinny Building Association. This association was chartered in 1869 "under and pursuant to the provisions of the act of the general assembly of 1859 and its several supplements." The articles of the constitution and the by-laws are not in conflict with that act of assembly, but 5th article provides more than the 6th section of the act on the same subject. Its language is: "All premiums, fines and charges that may be paid by stockholders, under the charter and by-laws of the corporation, shall not be deemed usurious, and may be collected as other debts of like amount are now collected in this commonwealth, provided that such stockholders shall have signed an agreement containing the following words, to wit: We, the stockholders and trustees of stock in the Shickshinny Building Association, located at

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Shickshinny, Pa., whose names are hereto subscribed, do hereby agree to and bind ourselves, our heirs, executors, administrators and assigns, to abide by the provisions of the charter of the association, and such by-laws as are or may be hereafter adopted."

In 1871, this decedent was a charter member and a stockholder. He owned two shares of stock, and borrowed from the association the amount of his stock, to wit: $400, less premiums, etc., for which he gave his judgment note in the sum of $400, which was entered of record. In 1876, this judgment was revived by amicable *scire facias*, with confession of judgment generally. He got on his loan about $230, making the premium $170. His dues and fines were paid up on his stock to 31st December, 1872, and he has paid to the association in all $280.89 since the loan. The association shows, by their secretary, that there is still due from the defendant in dues, fines, etc., the sum of $394.88 as of 30th June, 1877, the date when the association ceased to act.

The counsel for the widow and other creditors contend that it has not been shown that the defendant signed the agreement specified in article 5, he is only liable for the loan with lawful interest. It will be observed that the agreement in question only provides that the members shall abide by the provisions of the charter and by-laws. It must also be observed that article 5 is in strict accord and almost in the language of the 6th section of the act of 1859, except the proviso. While it is true that the article provides for the signing of an agreement, yet without such signing every member is bound by the law of the charter as soon as he becomes a member. It seems to us clear that the authority to exact premiums and fines beyond lawful interest does not come from the agreement, but from the act of assembly under which the charter was granted. The agreement provided for is not in the negative—that is, that all premiums, etc., *shall* be deemed usurious unless the member sign the agreement. The signature of the member might have been insisted upon by the association as a condition precedent to the loaning of the money, but it does not seem possible that a borrower can set up his omission as a defense after he has borrowed the money, and for years before and afterwards has paid his fines and dues, and in all other respects has complied with the charter law. This decedent was a

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charter member, and of course a stockholder. It is not a valid objection to a charter that some of its articles contain provisions not authorized by the act of 1859, and on a *scire facias* to revive a judgment entered on a bond given by a stockholder, he cannot set up as a defense an alleged conflict of some of its provisions with the general law. Becket *v.* Uniontown Association, 7 Norris, 211.

It was held in Dilzer *v.* Beethoven Association, 13 W. N. C. 165, that a married woman was liable on stock purchased by her before the act of 1879, because she had by her acts assumed the liability, and was estopped from denying it. The same principle is adhered to in Association *v.* Minnich, 1 Kulp, 513; but contra, Association *v.* Lyons, 12 Luz. Leg. Reg. 241, 2 Kulp, 409; but in this last case the defendant had made oath that he did not sign the agreement. But suppose no borrower is liable for more than legal interest unless he has signed the prescibed agreement, then we hold that the burden is on the defendant to show that he has not signed it, and this has not been done here. A compliance with the act of 1859 by the association takes off all legal taint of usury where premiums, dues and fines have been exacted. After it has been shown that the charter is lawful, and that a member and stockholder has made a loan under its provisions, he must himself show that he is exempt from liability under its provisions. Association *v.* Young, 9 W. N. C. 251. Again, the defendant has not shown clearly and affirmatively that he has paid the loan with interest. He has only shown payments on account, and it may be presumed that they were applied on fines and dues before the confession of judgment on the *scire facias*. Selden *v.* Association, 32 Smith, 336. Association *v.* Association, 10 Wright, 493. We cannot, at all events, go back of the confession of judgment on the amicable *scire facias*, for that is as binding on the parties as the verdict of a jury. Hopkins *v.* West, 2 Norris, 109. We may admit that the Court of Common Pleas may open a judgment confessed on revival, and allow a defendant to show usury (Walter *v.* Breisch, 5 Norris, 457), but it is assuming the whole question to say that there has been any usury here. At any rate, this court cannot, on the distribution of a fund, inquire into the validity of the judgment presented on the ground of

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usury. Edwards' Appeal, 16 Smith, 89; Rutherford *v.* Boyer, 3 Norris, 347; Trust Co. *v.* Roseberry, 31 Smith, 309.

The exception in this case is therefore dismissed, and the report of audit confirmed.

W. S. McLean, attorney, for plaintiff.

M. E. Walker, contra.

Court of Common Pleas of Armstrong County.

HILTY *v.* GUTHRIE.

A plaintiff, who appealed from an award of arbitrators in her favor, and obtained a verdict for the same sum, is entitled to full costs.

Henshaw *v.* Seiler, 2 Pearson, 113, not followed.

The opinion of the court was delivered by

BREDIN, J.—In this case, assumpsit for breach of promise to marry, plaintiff appealed from an award of arbitrators in her favor for $500, and obtained a verdict for the same sum. The defendant moves that judgment be entered without costs, contending, under authority of Henshaw *v.* Seiler, 2 Pearson, 113, that in such a case each party must pay his or her own costs.

This case is governed by Wible *v.* Buford, error from this county, decided at November term, 1850, of the Supreme Court. The abstract of opinion in 7 Pittsburgh Legal Journal, 188, is: "Where a plaintiff obtains an award in his favor, and on appeal taken by him, recovers a verdict for the same amount, he is entitled to full costs, our law having no special provision for the exact case, it follows the rule of the statute of Gloucester, 10 Barr, 180; 10 Harris, 298."

The case of Wible *v.* Buford does not seem to have been called to Judge Pearson's attention, and his view of the statute of Gloucester seems to differ from that of the Supreme Court.

Motion refused, and judgment is directed to be entered on verdict with full costs.

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ORPHANS' COURT SALE.

Estate of Ellen O'Neil, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Monday, March 31, 1884, at 10 o'clock A. M., all that lot of land, in Pittston township, commencing at the corner of lot late of Cornelius O'Neil, deceased, on Tetrick road, thence along said road to a corner on the Pennsylvania Coal Company's railroad, thence down said road to corner of Cornelius O'Neil, dec'd, on said road, thence along the line of lot late of Cornelius O'Neil, deceased, to the place of beginning, with one 1-story frame dwelling house thereon.

TERMS OF SALE.—Fifty dollars down, balance on confirmation of sale and delivery of deed.

CATHERINE SHEA,
JOHN T. LENAHAN, Administratrix.
Attorney. 10-12

ORPHANS' COURT SALE.

Estate of Cornelius O'Neil, deceased. By an order of the Orphans' Court of Luzerne county, the administratrix of said decedent will expose to public sale in due form, at the Arbitration Room, in the Court House, on Monday, March 31, 1884, at 10 o'clock A. M., all that lot of land, in Pittston township, beginning at a corner of lot of the heirs of Peter Carroll, deceased, thence along the old Tetrich road to a corner near the empty track of the Pennsylvania railroad, thence along said railroad to a corner of lot of the heirs of Peter Carroll, deceased, it being the corner in the rear of said lot and along heirs of Peter Carroll, deceased, to the place of beginning; containing one-fourth of an acre, be the same more or less; no improvements whatever thereon.

TERMS OF SALE.—Fifty dollars paid down at time of sale, and the balance on confirmation of sale and delivery of deed.

CATHERINE SHEA,
JOHN T. LENAHAN, Administratrix.
Attorney. 10-12

ORPHANS' COURT SALE.

Estate of Mary Ann Davis, deceased. By virtue of an order of the Orphans' Court of Luzerne county, the undersigned will expose to public sale, at the Arbitration Room, in the Court House, in the city of Wilkes-Barre, on Thursday, the 10th day of April, A. D. 1884, at 10 o'clock A. M., the following valuable real estate, to wit:

1. All the following piece of land, in Kingston township, beginning at a stake and stones on the public road, and running thence 25 perches to a corner near the house, thence 14 perches to a small run, thence 12 4-10 perches to a corner, thence 16 perches to a corner, thence 77 perches to a corner, thence 69 perches to a corner, thence 92 perches to a corner, thence 72 perches to a corner, thence 161 perches to a corner, thence 81 perches to a corner, thence 57 perches to a corner, thence 15 perches to a corner, thence 78 perches to the place of beginning; containing about 103 acres of land more or less; improved, with an old frame house, an old barn, and fruit trees thereon.

2. The surface of all that lot of land, in the city of Wilkes-Barre, beginning at the corner of River and Academy streets, thence along Academy street 355 5-10 feet to a corner, thence 430 feet to a corner, thence 355 5-10 perches to River street, and thence along River street 430 feet to the place of beginning, said premises being known as the Davis Homestead; improved, with an old house and fruit trees thereon. Said premises have been surveyed and laid out into city lots; reserving all coal and other minerals.

3. The surface of all that lot of land, in the city of Wilkes-Barre, beginning at a corner of Academy and River streets, thence 489 5-10 feet to a corner, thence 428 6-10 feet to a corner, thence 494 5-10 feet to River street, and thence along River street 430 feet to the place of beginning, excepting and reserving all coal and other minerals. Said premises have been surveyed and laid out into city lots.

4 The surface of all that lot of land, in the city of Wilkes-Barre, being a part of lot No. 25 in the first division of Wilkes-Barre township, and of No. 6 on return of inquest in partition of the estate of Daniel Downing, deceased, beginning at a corner, thence by land allotted to Samuel Carson and Mary, his wife, 25 7-10 perches to a corner, thence 34 4-10 perches to a corner, thence by Daniel Downing 25 7-10 perches to a corner, and thence 34 4-10 perches to the beginning; containing 5 acres and 46 perches, be the same more or less, excepting and reserving all coal and other minerals. Said premises have been surveyed and laid out into city lots.

5. All the coal and minerals under the surface of those two lots or pieces of land, in the city of Wilkes-Barre, the first beginning at the corner of River and Academy streets, thence along Academy street 355 5-10 feet to a corner, thence 430 feet to a corner, thence 355 5-10 feet to River street, and thence along River street 430 feet to the place of beginning; containing about 3 acres and 55 8-10 perches of coal. The second thereof beginning at a corner of Academy and River streets, thence 489 5-10 feet to a corner, thence 428 6-10 feet to a corner, thence 494 5-10 feet to River street, and thence along River street 430 feet to the place of beginning, excepting and reserving all that portion of the tract conveyed by Joseph Davis to the Lehigh Coal and Navigation Company; containing about 4 acres and 25 perches.

6. All the coal and minerals under the surface of that lot of land, in the city of Wilkes-Barre, beginning at a corner, thence by land allotted to Samuel Carson and Mary, his wife, 25 7-10 perches to a corner, thence 34 4-10 perches to a corner, thence by Daniel Downing 25 7-10 perches to a corner, and thence 34 4-10 perches to the beginning; containing 5 acres and 46 perches more or less, and being a part of lot No. 25 in the first division of Wilkes-Barre township, and of No. 6 of inquest in partition of the estate of Daniel Downing, deceased.

TERMS OF SALE.—One-third of the amount bid down, 50 per centum of the balance on confirmation of sale, and the balance with interest from confirmation six months from the date of such confirmation, when deeds are to be delivered, or the whole balance upon confirmation of sale, and delivery of deed if the purchaser so desires.

ABRAM NESBIT,
GEO. K. POWELL, Administrator, *c. t. a.*
Attorney. 11-13

ORPHANS' COURT SALE.

Estate of Stephen S. Winchester, deceased. By virtue of an order of the Orphans' Court of Luzerne county, the undersigned Administrator of the estate of the said decedent will expose to public sale, at the Arbitration Room, in the Court House, city of Wilkes-Barre, on Friday, the 25th day of April, A. D. 1884, at 10 o'clock A. M., the following valuable real estate, to wit: all that piece of land in the eighth ward of the city of Wilkes-Barre, beginning at a corner on Washington street, thence along lands formerly of Joseph Slocum, now deceased, 243 3-12 feet to a corner, thence 70 feet to a corner, thence along lands now or late of Isaac T. Puterbaugh and others 243 3-12 feet to a corner on Washington street aforesaid, and thence along said street 70 feet to the place of beginning; containing 17000 square feet of land be the same more or less, upon which there is erected a large 3-story brick dwelling house, with a large 2-story brick dining-room and kitchen thereto attached, having all the modern improvements and outbuildings, also a great variety of bearing fruit trees, grapes, arbors, etc., thereon.

TERMS OF SALE.—One-third down on day of sale, one-third on confirmation, and the balance in six months from confirmation of sale, with interest thereon from confirmation, to be secured by bond and mortgage upon the premises, unless the payers in the first mortgage lien thereon shall become the purchasers for a price not largely in excess thereof—principal, interest, costs, charges and expenses of sale. Further particulars made known on day of sale.

GEORGE K. POWELL,
DAVID L. PATRICK, Administrator.
Attorney. 12-14

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ESTATE OF ELIZABETH WILLIAMS, LATE of Plains township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

THOMAS E. LEWIS,
W. S. McLEAN, Plains, Pa.
Attorney. 9-14

ESTATE OF JOHN J. HUMMELL, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARGARET A. HUMMELL,
A. RICKETTS, Wilkes-Barre, Pa.
Attorney. 7-12

ESTATE OF HELEN A. BRYANT, LATE OF Blakely borough, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

S. B. STURDEVANT,
BENNETT & NICHOLS. Wilkes-Barre, Pa.
Attorneys. 9-14

ESTATE OF JAMES McNEAL, LATE OF Salem township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARVEY McNEAL,
9-14 Plains, Pa.

ESTATE OF JOSEPH HAWK, LATE OF Sugarloaf township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEO. W. DRUM,
A. R. BRUNDAGE, Conyngham, Pa.
Attorney. 7-12

ESTATE OF PATRICK BRADLEY, LATE OF Plymouth township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

J. W. SHELLHAMMER,
W. S. McLEAN, Plymouth, Pa.
Attorney. 8-13

ESTATE OF HENRY LAUN, LATE OF Sugarloaf township, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CAROLINE LAUN,
BENNETT & NICHOLS, Seybertsville, Pa.
Attorneys. 8-13

ESTATE OF WASHINGTON LEE, LATE OF Nanticoke, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

PRISCILLA L. BENNETT,
E. P. & J. V. DARLING, Wilkes-Barre, Pa.
Attorneys. 9-14

ESTATE OF PATRICK McNALLY, LATE OF Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN J. COGGINS,
JOHN T. LENAHAN, Pittston, Pa.
Attorney. 10-15

ESTATE OF PHILEMON SANTEE, LATE OF Sugarloaf township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. W. SANTEE,
10-15 Seybertsville, Pa.

ESTATE OF RHODA A. HARRISON, LATE of Union township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOSEPH H. HARRISON,
10-15 Muhlenburg, Pa.

ESTATE OF BERNARD NEVIN, LATE OF Ashley, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EDWARD P. NEVIN,
9-14 Ashley, Pa.

ESTATE OF ISAAC B. TITUS, LATE OF Shickshinny, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE W. YOULLS,
M. E. WALKER, Shickshinny, Pa.
Attorney. 11-16

ESTATE OF JOHN GEORGE KOEHLER, late of Nescopeck township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

E. F. KOEHLER,
A. DARTE, Kingston, Pa.
Attorney. 11-16

ESTATE OF OWEN JONES, LATE OF PLYmouth township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN R. DAVIS,
D. M. JONES, West Nanticoke, Pa.
Attorney. 11-16

ESTATE OF SARAH R. SLOCUM, LATE OF Kingston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY E. SLOCUM,
ABRAM NESBIT,
GEO. S. BENNETT,
DICKSON & ATHERTON, Wilkes-Barre, Pa.
Attorneys. 10-15

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ESTATE OF HUGH MURRAY, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELIZABETH MURRAY,
8-13 Wilkes-Barre, Pa.

ESTATE OF JOSEPH WILLIAMS, LATE OF Pittston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN W. WILLIAMS,
GEO. S. FERRIS, Pittston, Pa.
Attorney. 11-16

ESTATE OF THOMAS B. PETERS, LATE OF Plains township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MOSES GRIFFITHS,
D. M. JONES, Plains, Pa.
Attorney. 11-16

ESTATE OF DAVID N. JONES, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WILLIAM JONES,
11-16 Wilkes-Barre, Pa.

ESTATE OF CATHARINE BURKE, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

M. W. MORRIS,
11-16 Pittston, Pa.

ESTATE OF JUSTUS RIMBACH, LATE OF Sugarloaf township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WILLIAM KAUFFMAN.
11-16 Conyngham, Pa.

ESTATE OF CLINTON W. YAPLE, LATE of Shickshinny, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. A. CAMPBELL,
12-17 Shickshinny, Pa.

ESTATE OF CLARA HALFPENNY, LATE of West Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN W. DAVIES,
D. M. JONES, Pittston, Pa.
Attorney. 12-17

ESTATE OF PHOEBE HANZ, LATE OF Black Creek township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. R. HANZ,
9-14 Seybertsville, Pa.

ESTATE OF LEWIS FREDERICK, LATE OF Sugarloaf township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

RACHEL FREDERICK,
7-12 Conyngham, Pa.

ESTATE OF JACOB OCKSENREIDER, LATE of Sugarloaf township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

REUBEN E. OCKSENREIDER,
7-12 Deringer, Pa.

ESTATE OF L. H. STEELE, LATE OF PLYmouth, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

S. A. STEELE,
7-12 Plymouth, Pa.

THE COMMONWEALTH OF PENNSYLvania, Luzerne county, ss:

{Seal} To Amy A. Simpson, Henry F. Beck, Chas. F. Beck, Louisa O. Beck, Julia M. Beck, Anna L. Beck, and Harwick Beck, children of Antonette Beck, late of Franklin township, Luzerne county, deceased, Greeting:

At the instance of A. J. Frantz, a creditor, you are hereby cited to be and appear before me, Joseph Hendler, Esq., Register for the probate of Wills and granting Letters of Administration in and for the said county, at my office, in the city of Wilkes-Barre, on Tuesday, the 25th day of March, A. D. 1884, at 10 o'clock A. M. of said day, then and there to accept or renounce your right to administer upon the estate of Antonette Beck, who lately died intestate, or in default thereof to show cause, if any you have, why Letters of Administration shall not be granted unto Charles H. Cooke, or some other fit person; hereof fail not.

Given under the hand of the said Joseph Hendler, Esq., and the seal of the said office, at Wilkes-Barre, the 4th day of March, A. D. 1884.

JOSEPH HENDLER, Register.
Per B. M. CRARY, Deputy.

H. B. PAYNE,
Attorney. 10-12

NOTICE IS HEREBY GIVEN, THAT AN application will be made to one of the Judges of the Court of Common Pleas of Luzerne county, under the provisions of the Act of Assembly entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, on Monday, April 21st, 1884, at 10 o'clock A. M., for the incorporation of an intended corporation, to be called "The Welsh Congregational Church," of Nanticoke, Pa., the character and object whereof is to worship God according to the faith, doctrines, discipline, and usages of "The Welsh Congregational Church," and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of said Act of Assembly and its supplements.

W. H. HINES,
11-13 Solicitor.

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PUBLIC NOTICE IS HEREBY GIVEN, THAT an application will be made to the Court of Quarter Sessions for Luzerne county, on the 25th day of April, A. D. 1884, at 10 o'clock A. M., for a change of the borough limits of the borough of Pleasant Valley.

A. R. BRUNDAGE,
12-14 Attorney for Petitioners.

NOTICE IS HEREBY GIVEN, THAT, IN accordance with the resolution of the Board of Directors, there will be a meeting of the Stockholders of the Glen Summit Hotel and Land Company held at the office of the Lehigh Valley Coal Company, Wilkes-Barre, Pa., on Wednesday, 23d April, 1884, at 2 o'clock P. M., to consider the question of issuing bonds and mortgage upon the franchises and property of the company for the purpose of completing the hotel, furnishing the same, etc., and for such other business as may come before the meeting.

By order of the Board of Directors.

ANDREW H. McCLINTOCK,
9-16 Secretary.

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 39, January term, 1884. Libel in divorce a vinculo matrimonii. Florence A. Ryman, by her next friend, Andrew Hilbert, v. Marshal Ryman. The alias subpoena in the above case having been returned, "That the said Marshal Ryman cannot be found in Luzerne county." You, the said Marshal Ryman, respondent, are required to appear on Monday, May 12, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
E. D. NICHOLS, Sheriff.
Attorney. 10-13

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 630, October term, 1883. Libel in divorce a vinculo matrimonii. Catherine Jones, by her next friend, John Gaynor, v. John F. Jones. To John F. Jones—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the subpoena having failed on account of your absence. Returnable on Monday, March 31, 1884, at 10 o'clock A. M.

JOHN T. LENAHAN,
12-12 Solicitor.

AUDITOR'S NOTICE.

In Re Indebtedness of Plains township. The undersigned has been appointed an auditor to ascertain and marshal the indebtedness of the above township. All those who have claims or demands against the same are required to present them before me on Saturday, the 12th of April, 1884, at 10 o'clock A. M.

W. R. GIBBONS,
12-15 Auditor.

AUDITOR'S NOTICE.

The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county, to report distribution of the fund raised at the suit of A. Whitaker, Trustee, v. J. W. Peck, and now in the hands of said A. Whitaker, Trustee, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, in the city of Wilkes-Barre, on Friday, April 11, 1884, at 10 o'clock A.M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

EDWIN SHORTZ,
11-14 Auditor.

CHAS. D. FOSTER,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

WILLIAM S. McLEAN,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

W. S. PARSONS,

ALDERMAN,

WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, MARCH 28, 1884. No. 13.

Court of Common Pleas of Luzerne County.

WILLIAM O'MALLEY *v.* THE COUNTY OF LUZERNE.

1. The act of assembly of 12th June, 1878, which ascertained and appointed the fees to be received by the various county officers of the commonwealth, was a virtual repeal of the special act of 9th April, 1873, applicable to Luzerne county: there being a general repealing clause in the later act, and the two acts being entirely inconsistent.

2. The act of 12th June, 1878, will be held to apply to a county having a *present* population of less than 150,000, as shown by the decennial census, although the same county, at the time of the passage of the act, contained a population of more than 150,000, and was therefore excepted from its operation.

Case stated.

The opinion of the court was delivered October 29, 1883, by

WOODWARD, J.—This is a case stated, and the question which it presents for our consideration is this: did the act of assembly of 12th June, 1878 (P. L. 187), entitled "An act to ascertain and appoint the fees to be received by the sheriffs, coroners, prothonotaries, clerks of the several courts, registers of wills and recorders of deeds of this commonwealth, except in counties containing more than one hundred and fifty thousand, or less than ten thousand, inhabitants," repeal the act of 9th April, 1873 (P. L. 583), which provided that the sheriff of Luzerne county should be entitled to receive one dollar for each jury notice by him served? The act of 1878 is a general law, covering nine pages of the pamphlet laws, and purports, as its title indicates, to ascertain and appoint the fees and compensation of county officers for all services to be by them rendered. Under the subdivision relating to sheriffs, it provides that they shall receive, "for each juror summoned to attend at court, and return of venire to be paid by the county, without mileage, twenty-five cents." The

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local or special act of 1873 had fixed the compensation of the sheriff of Luzerne county for serving jurors at one dollar for each juror, as already stated.

Although the case presents but one question, the aspect of the argument is twofold so far as regards the rights of the plaintiff. He claims that the act of 1878 did not repeal the act of 1873—first, because the act of 1878 was not to apply to counties having more than 150,000 people, and it is admitted that, at the time of the passage of the act, Luzerne county contained a population considerably in excess of that number, although, subsequently, and at the time of the election of the plaintiff, by reason of the erection of Lackawanna county, having, as shown by the census of 1880, less than 150,000 inhabitants; and secondly, the plaintiff alleges that, even if the act of 1878 is applicable and does apply to Luzerne county, that, even then, it does not repeal the act of 1873 either directly or by necessary implication of law.

Is it true, then, that because Luzerne county was excepted from the effect of the act of 1878 at the time of its passage because of a population of over 150,000, she is to remain unaffected by that act, when she is shown by the subsequent census to have fallen below a population of 150,000? As the precise question thus presented is a new one, we must be guided in our determination of it by such analogies as are within our reach, and which seem to be applicable to the circumstances of the case.

Why were counties having a population of more than 150,000 excepted from the effect of the act of 1878? Clearly there can be but one answer to this inquiry. It was because the new constitution of 1873 had ordained in section 5, of article xiv., that in counties containing over 150,000 inhabitants "all county officers shall be paid by salary," * * * and "the compensation of county officers *shall be regulated by law*, and all county officers who are or may be salaried shall pay all fees which they may be authorized to receive into the treasury of the county or state, as may be directed by law," etc. Section 29 of the schedule provides that all state, county, city, ward, borough, and township officers in office, at the time of the adoption of this constitution, whose compensation is not provided for by salaries alone, shall continue to receive the compensation allowed them by law *until the expiration of their respective terms of office*." Then came the act of

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31st March, 1876 (P. L. 13). This is entitled an act to carry into effect section 5 of article xiv. of the constitution, relative to the salaries of county officers, etc., in counties containing over 150,000 inhabitants. Section 14 of this act provides for the compensation by salary of county officers in counties containing between 150,000 and 250,000 inhabitants.

Constitutions and acts of assembly, passed for the express purpose of executing constitutional mandates, must be considered as the fundamental law, and as having the most comprehensive and permanent significance. They are not for a day, but for all time. Can it be supposed, then, that the system of compensating county officers, contemplated by the constitution and by the acts of assembly made to enforce it, and based upon population, were to have reference only to facts as they then existed? Was it not rather the purpose to furnish a fixed and permanent classification, so that when, in any given case, a county, as shown by the census, fell in a certain class, a rule was ready for it? Because a certain county, at the last census, contained but 149,000 people, and therefore was not embraced by the terms of the act of 1876 fixing the salaries of officers, shall it be said that, when a subsequent census comes to be taken, and a population of 200,000 established, that the salary act will not then apply? Such a construction of the law would, it seems to us, be most unnatural. It would seem more reasonable to conclude that the constitution and the statute were to furnish a permanent rule of action, and that, when a county is shown by reliable and official authority to contain a certain population, it should at once and *ipso facto* fall into its proper class and be governed accordingly.

In the case of the County of Luzerne *v.* Griffith, 1 Kulp, 297, it was held by Judge Rice that the act of 31st March, 1876, passed to carry into effect section 5 of article xiv. of the constitution, was intended to be general in its operation, and was not limited to the particular counties then having the required population. It was also held by Judge Rice that the last decennial census is to be considered the best evidence of the population of a county, there being no other or specific method provided for ascertaining such population with a view to classification. As a result of this, it was decided that, as Luzerne county contained, after the setting off of Lackawanna county, less than 150,000 inhabitants, the

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county treasurers thereafter elected are to be compensated by fees and commissions, and not by salaries.

We are of the opinion, therefore, that the act of 12th June, 1878, may be held to apply to a county having a present population of less than 150,000, as shown by the decennial census; although the same county, at the time of the passage of the act, contained a population of more than 150,000, and was, therefore, by the provisions of that act, excepted from its operation.

It remains to consider the other question raised in this case. Does the act of 1878, either directly or by necessary implication, repeal the act of 1873? The one act does not directly repeal the other, for the reason that no mention of, or reference to, the act of 1873 is made in the act of 1878. But the act of 1878, in section 13, provides that "all laws or parts of laws inconsistent with this act be, and the same are, hereby repealed," etc. The exact question, then, is this: Are the acts of assembly of 12th June, 1878, and of 9th April, 1873, inconsistent with each other, the latter being a special law, applicable only to Luzerne county, and the former being a general law, apparently intended to embrace all the counties of the state, except those containing more than 150,000, or less than 10,000, inhabitants?

The learned counsel for the plaintiff directs our attention to the rule of construction so well expressed in Thorpe *v.* Adams, 6 L. R. C. P. 125, where it is said that "a general act is not to be construed to repeal a previous particular act, unless there is some express reference to the previous legislation on the subject, or unless there is a necessary inconsistency in the two acts standing together;" and also to the rule that "repeals by implication are things disfavored by the law, never allowed but where the inconsistency and repugnancy is plain, glaring and unavoidable." See Street *v.* Commonwealth, 6 W. & S. 209. And there is much force in the observation found upon the brief of the counsel for plaintiff, that "it is against reason to suppose that the legislature, in framing a general system for the state, intended to repeal a special act which the local circumstances of one county had made necessary." It must be admitted, also, that the fee of "twenty-five cents, without mileage," fixed by the act of 1878, as compensation for summoning jurors, seems, when applied to Luzerne county, absurdly inadequate.

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We have examined all the Pennsylvania cases bearing upon the question now before us, and without quoting them by name or in their order, it is safe to say that the rule adopted by our courts has uniformly been that one act of assembly is held to repeal another by implication only in cases of very strong repugnancy, or irreconcilable inconsistency. See 6 W. & S. 209; 10 Barr, 442. But it is a suggestive fact, that in none of the cases relied upon by the plaintiff was there a negative or repealing clause in the later act. Thus in Brown *v.* County Commissioners, 9 Harris, 43, Black, C. J., sums up the doctrine of the law in these words: "It seems to be well settled that a general statute *without negative words* cannot repeal a previous statute which is particular, even though the provisions of one be different from the other." This case was decided in 1853, and the same distinction between acts of assembly with negative or repealing words and those without such words is frequently recognized in the more recent cases. In Kilgore *v.* Commonwealth, 9 W. N. C. 184, it was held that a later general act, in regard to tavern licenses, did not repeal an earlier special act on the same subject, applicable only to Allegheny county. But in this case, the general law, while directing that licenses should be granted by the Court of Quarter Sessions, contained a qualification in these words: "When not otherwise provided for by special law," and the special law provided for the granting of licenses by the county treasurer. Judge Pearson, before whom the case was argued in the court below, calls attention to this qualification or proviso as tending to show that no repeal was contemplated. This judgment was afterwards affirmed by the Supreme Court, but we can find nothing in their opinion which assists the plaintiff in the present controversy.

The 5th section of article xiv. of the constitution of the state provides that "the compensation of county officers shall be regulated by law," etc. The act of 12th June, 1878, was a response to this requirement of the constitution. It recognizes no exception in favor of any existing local or special laws, but purports to be an act to "ascertain and appoint" the fees to be received by all county officers. Moreover, it ordains that "all laws, or parts of laws, inconsistent with this act, be, and the same are, hereby repealed." The only exceptions recognized are counties

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containing more than 150,000, or less than 10,000, inhabitants. To these the act was not intended to apply, but as the present plaintiff assumed his office at a time when Luzerne county contained less than 150,000, and more than 10,000, people, he takes nothing by reason of these exceptions. It seems clear to us that this legislation was intended to establish a uniform fee bill for all the counties of the same class, and that the repealing clause would mean nothing unless construed to repeal all previous and local legislation on the same subject. In other words, as soon as a county is shown by the census to fall within the class where the county officers are to be compensated by fixed fees instead of by an annual salary, then the act of 1878 becomes the law for that county, and the fee bill is in force. And it seems to us too clear for serious argument that an act of assembly giving a sheriff twenty-five cents for serving a juror is inconsistent with a previous act giving him one dollar for the same service. Things are said to be inconsistent when they are contrary the one to the other, or, according to Webster, "so that one infers the negation, destruction, or falsity of the other." The same authority defines the word "consistent" to mean "not contradictory, compatible, accordant." If we are right in holding that the act of 1878 is to be construed as applicable to counties which, like Luzerne, have, since its passage, come to be subject to its provisions because of a decrease in population, then it would seem self-evident that the repealing clause which strikes at all inconsistent legislation on the same subject must of necessity abrogate the right of the plaintiff to claim compensation under the act of 1873.

We are of the opinion that the general law of 12th June, 1878, is inconsistent with the special or local act of 9th April, 1873, and that, for this reason, the repealing clause of the former is applicable to the latter act. It follows that the act of 1873 is repealed by the act of 12th June, 1878.

And now, 29th October, 1883, it is ordered and adjudged that judgment be entered in favor of the plaintiff and against the defendant for the sum of one hundred and seventeen dollars, without costs, as provided by the agreement of the parties in the case stated.

E. P. & J. V. Darling, for plaintiff.

William S. McLean, for defendant.

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ORPHANS' COURT SALE.

Estate of Stephen S. Winchester, deceased. By virtue of an order of the Orphans' Court of Luzerne county, the undersigned Administrator of the estate of the said decedent will expose to public sale, at the Arbitration Room, in the Court House, city of Wilkes-Barre, on Friday, the 25th day of April, A. D. 1884, at 10 o'clock A. M., the following valuable real estate, to wit: all that piece of land in the eighth ward of the city of Wilkes-Barre, beginning at a corner on Washington street, thence along lands formerly of Joseph Slocum, now deceased, 243 3-12 feet to a corner, thence 70 feet to a corner, thence along lands now or late of Isaac T. Puterbaugh and others 243 3-12 feet to a corner on Washington street aforesaid, and thence along said street 70 feet to the place of beginning; containing 17000 square feet of land be the same more or less, upon which there is erected a large 3-story brick dwelling house, with a large 2-story brick dining-room and kitchen thereto attached, having all the modern improvements and outbuildings, also a great variety of bearing fruit trees, grapes, arbors, etc., thereon.

TERMS OF SALE.—One-third down on day of sale, one-third on confirmation, and the balance in six months from confirmation of sale, with interest thereon from confirmation, to be secured by bond and mortgage upon the premises, unless the payers in the first mortgage lien thereon shall become the purchasers for a price not largely in excess thereof—principal, interest, costs, charges and expenses of sale. Further particulars made known on day of sale.

GEORGE K. POWELL,
DAVID L. PATRICK, Administrator.
Attorney. 12-14

ORPHANS' COURT SALE.

Estate of Mary Ann Davis, deceased. By virtue of an order of the Orphans' Court of Luzerne county, the undersigned will expose to public sale, at the Arbitration Room, in the Court House, in the city of Wilkes-Barre, on Thursday, the 10th day of April, A. D. 1884, at 10 o'clock A. M., the following valuable real estate, to wit:

1. All the following piece of land, in Kingston township, beginning at a stake and stones on the public road, and running thence 25 perches to a corner near the house, thence 14 perches to a small run, thence 12 4-10 perches to a corner, thence 16 perches to a corner, thence 77 perches to a corner, thence 69 perches to a corner, thence 92 perches to a corner, thence 72 perches to a corner, thence 161 perches to a corner, thence 81 perches to a corner, thence 57 perches to a corner, thence 15 perches to a corner, thence 78 perches to the place of beginning; containing about 103 acres of land more or less; improved, with an old frame house, an old barn, and fruit trees thereon.

2. The surface of all that lot of land, in the city of Wilkes-Barre, beginning at the corner of River and Academy streets, thence along Academy street 355 5-10 feet to a corner, thence 430 feet to a corner, thence 355 5-10 perches to River street, and thence along River street 430 feet to the place of beginning, said premises being known as the Davis Homestead; improved, with an old house and fruit trees thereon. Said premises have been surveyed and laid out into city lots; reserving all coal and other minerals.

3. The surface of all that lot of land, in the city of Wilkes-Barre, beginning at a corner of Academy and River streets, thence 489 5-10 feet to a corner, thence 428 6-10 feet to a corner, thence 494 5-10 feet to River street, and thence along River street 430 feet to the place of beginning, excepting and reserving all coal and other minerals. Said premises have been surveyed and laid out into city lots.

4. The surface of all that lot of land, in the city of Wilkes-Barre, being a part of lot No. 25 in the first division of Wilkes-Barre township, and of No. 6 on return of inquest in partition of the estate of Daniel Downing, deceased, beginning at a corner, thence by land allotted to Samuel Carson and Mary, his wife, 25 7-10 perches to a corner, thence 34 4-10 perches to a corner, thence by Daniel Downing 25 7-10 perches to a corner, and thence 34 4-10 perches to the beginning; containing 5 acres and 46 perches, be the same more or less, excepting and reserving all coal and other minerals. Said premises have been surveyed and laid out into city lots.

5. All the coal and minerals under the surface of those two lots or pieces of land, in the city of Wilkes-Barre, the first beginning at the corner of River and Academy streets, thence along Academy street 355 5-10 feet to a corner, thence 430 feet to a corner, thence 355 5-10 feet to River street, and thence along River street 430 feet to the place of beginning; containing about 3 acres and 55 8-10 perches of coal. The second thereof beginning at a corner of Academy and River streets, thence 489 5-10 feet to a corner, thence 428 6-10 feet to a corner, thence 494 5-10 feet to River street, and thence along River street 430 feet to the place of beginning, excepting and reserving all that portion of the tract conveyed by Joseph Davis to the Lehigh Coal and Navigation Company; containing about 4 acres and 25 perches.

6. All the coal and minerals under the surface of that lot of land, in the city of Wilkes-Barre, beginning at a corner, thence by land allotted to Samuel Carson and Mary, his wife, 25 7-10 perches to a corner, thence 34 4-10 perches to a corner, thence by Daniel Downing 25 7-10 perches to a corner, and thence 34 4-10 perches to the beginning; containing 5 acres and 46 perches more or less, and being a part of lot No. 25 in the first division of Wilkes-Barre township, and of No. 6 of inquest in partition of the estate of Daniel Downing, deceased.

TERMS OF SALE.—One-third of the amount bid down, 50 per centum of the balance on confirmation of sale, and the balance with interest from confirmation six months from the date of such confirmation, when deeds are to be delivered, or the whole balance upon confirmation of sale, and delivery of deed if the purchaser so desires.

ABRAM NESBIT,
GEO. K. POWELL, Administrator, *c. t. a.*
Attorney. 11-13

ESTATE OF PATRICK BRADLEY, LATE OF Plymouth township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

J. W. SHELLHAMMER,
W. S. McLEAN, Plymouth, Pa.
Attorney. 8-13

ESTATE OF ELIZABETH WILLIAMS, LATE of Plains township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

THOMAS E. LEWIS,
W. S. McLEAN, Plains, Pa.
Attorney. 9-14

ESTATE OF PHILEMON SANTEE, LATE OF Sugarloaf township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. W. SANTEE,
10-15 Seybertsville, Pa.

ESTATE OF SARAH R. SLOCUM, LATE OF Kingston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY E. SLOCUM,
ABRAM NESBIT,
GEO. S. BENNETT,
DICKSON & ATHERTON, Wilkes-Barre, Pa.
Attorneys. 10-15

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ESTATE OF HENRY LAUN, LATE OF Sugarloaf township, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CAROLINE LAUN,

BENNETT & NICHOLS, Seybertsville, Pa.
Attorneys. 8-13

ESTATE OF PHOEBE HANZ, LATE OF Black Creek township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. R. HANZ,

9-14 Seybertsville, Pa.

ESTATE OF WASHINGTON LEE, LATE OF Nanticoke, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

PRISCILLA L. BENNETT,

E. P. & J. V. DARLING, Wilkes-Barre, Pa.
Attorneys. 9-14

ESTATE OF HELEN A. BRYANT, LATE OF Blakely borough, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

S. B. STURDEVANT,

BENNETT & NICHOLS, Wilkes-Barre, Pa.
Attorneys. 9-14

ESTATE OF THOMAS B. PETERS, LATE OF Plains township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MOSES GRIFFITHS,

D. M. JONES, Plains, Pa.
Attorney. 11-16

ESTATE OF ISAAC B. TITUS, LATE OF Shickshinny, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE W. YOULLS,

M. E. WALKER, Shickshinny, Pa.
Attorney. 11-16

ESTATE OF JOHN GEORGE KOEHLER, late of Nescopeck township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

E. F. KOEHLER,

A. DARTE, Kingston, Pa.
Attorney. 11-16

ESTATE OF CATHARINE BURKE, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

M. W. MORRIS,

11-16 Pittston, Pa.

ESTATE OF JAMES McNEAL, LATE OF Salem township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARVEY McNEAL,

9-14 Plains, Pa.

ESTATE OF PATRICK McNALLY, LATE OF Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN J. COGGINS,

JOHN T. LENAHAN, Pittston, Pa.
Attorney. 10-15

ESTATE OF BERNARD DUFFY, LATE OF Plymouth township, deceased.

Letters of administration *c.t.a.* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES L. LENAHAN,

13-18 Wilkes-Barre, Pa.

ESTATE OF DAVID N. JONES, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WILLIAM JONES,

11-16 Wilkes-Barre, Pa.

ESTATE OF JUSTUS RIMBACH, LATE OF Sugarloaf township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WILLIAM KAUFFMAN,

11-16 Conyngham, Pa.

ESTATE OF JOSEPH WILLIAMS, LATE OF Pittston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN W. WILLIAMS,

GEO. S. FERRIS, Pittston, Pa.
Attorney. 11-16

ESTATE OF CLARA HALFPENNY, LATE of West Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN W. DAVIES,

D. M. JONES, Pittston, Pa.
Attorney. 12-17

ESTATE OF OWEN JONES, LATE OF PLYmouth township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN R. DAVIS,

D. M. JONES, West Nanticoke, Pa.
Attorney. 11-16

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ESTATE OF ELIZABETH MAY, LATE OF Foster township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN H. MAY,
White Haven, Pa.

G. L. HALSEY,
Attorney.

13-18

ESTATE OF BERNARD NEVIN, LATE OF Ashley, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EDWARD P. NEVIN,
Ashley, Pa.

9-14

ESTATE OF RHODA A. HARRISON, LATE of Union township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOSEPH H. HARRISON,
Muhlenburg, Pa.

10-15

ESTATE OF CLINTON W. YAPLE, LATE of Shickshinny, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. A. CAMPBELL,
Shickshinny, Pa.

W. S. McLEAN,
Attorney.

12-17

AUDITOR'S NOTICE.

In Re Indebtedness of Plains township. The undersigned has been appointed an auditor to ascertain and marshal the indebtedness of the above township. All those who have claims or demands against the same are required to present them before me on Saturday, the 12th of April, 1884, at 10 o'clock A. M.

W. R. GIBBONS,
Auditor.

12-15

AUDITOR'S NOTICE.

The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county, to report distribution of the fund raised at the suit of A. Whitaker, Trustee, v. J. W. Peck, and now in the hands of said A. Whitaker, Trustee, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, in the city of Wilkes-Barre, on Friday, April 11, 1884, at 10 o'clock A.M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

EDWIN SHORTZ,
Auditor.

11-14

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Moses Wolf, and that said license will be asked for in the court aforesaid, on Monday, April 21st, 1884, at 10 o'clock A. M.

JOHN T. LENAHAN,
Solicitor.

13-14

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by S. Solsberg, and that said license will be asked for in the court aforesaid, on Monday, April 21st, 1884, at 10 o'clock A. M.

JOHN T. LENAHAN,
Solicitor.

13-14

PUBLIC NOTICE IS HEREBY GIVEN, THAT an application will be made to the Court of Quarter Sessions for Luzerne county, on the 21st day of April, A. D. 1884, at 10 o'clock A. M., for an extension and admission to the limits of the borough of Pittston, in the county of Luzerne, of an adjacent section of land known as Scotch Hill, and that a plan or plot of such extension has been filed in the office of the Court of Quarter Sessions of said county.

GEO. S. FERRIS,
Solicitor.

13-15

PUBLIC NOTICE IS HEREBY GIVEN, THAT an application will be made to the Court of Quarter Sessions for Luzerne county, on the 25th day of April, A. D. 1884, at 10 o'clock A M., for a change of the borough limits of the borough of Pleasant Valley.

A. R. BRUNDAGE,
Attorney for Petitioners.

12-14

NOTICE IS HEREBY GIVEN, THAT, IN accordance with the resolution of the Board of Directors, there will be a meeting of the Stockholders of the Glen Summit Hotel and Land Company held at the office of the Lehigh Valley Coal Company, Wilkes-Barre, Pa., on Wednesday, 23d April, 1884, at 2 o'clock P. M., to consider the question of issuing bonds and mortgage upon the franchises and property of the company for the purpose of completing the hotel, furnishing the same, etc., and for such other business as may come before the meeting.

By order of the Board of Directors.

ANDREW H. McCLINTOCK,
Secretary.

7-16

NOTICE IS HEREBY GIVEN, THAT AN application will be made to one of the Judges of the Court of Common Pleas of Luzerne county, under the provisions of the Act of Assembly entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, on Monday, April 21st, 1884, at 10 o'clock A. M., for the incorporation of an intended corporation, to be called "The Welsh Congregational Church," of Nanticoke, Pa., the character and object whereof is to worship God according to the faith, doctrines, discipline, and usages of "The Welsh Congregational Church," and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of said Act of Assembly and its supplements.

W. H. HINES,
Solicitor.

11-13

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 39, January term, 1884. Libel in divorce a vinculo matrimonii. Florence A. Ryman, by her next friend, Andrew Hilbert, v. Marshal Ryman. The alias subpoena in the above case having been returned, "That the said Marshal Ryman cannot be found in Luzerne county." You, the said Marshal Ryman, respondent, are required to appear on Monday, May 12, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.

E. D. NICHOLS,
Attorney.

10-13

IN THE COURT OF COMMON PLEAS FOR the County of Luzerne of May Term, 1884, No. . Notice is hereby given, that an application will be made to the said court, on Monday, April 21st, 1884, at 10 o'clock A. M., under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the incorporation and regulation of certain corporations," approved April 29th, 1874, and the supplements thereto, for the charter of an intended corporation, to be called "The Wilkes-Barre Board of Trade," the character and object whereof is the encouragement and protection of trade and commerce, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements.

E. P. & J. V. DARLING,
Solicitors.

13-15

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, APRIL 4, 1884. NO. 14.

Orphans' Court of Luzerne County.

DRAKE'S ESTATE.

1 The direction to pay over to a grandson at his arrival at the age of twenty-two years "the annual income and proceeds of any accumulations thereof" does not limit the gift to the interest upon the interest. What is meant is, the income and proceeds of the residuary estate, and of the accumulations, if any, which were authorized to be made during his minority.

2. A testamentary power to lease mineral lands when properly exercised puts the property and its rents on the same footing as if the testator had leased it or opened the mine himself. While the *logic* is that a coal lease is a sale of the coal in place, and consequently a sale of the *corpus*, the *legal conclusion* is that where a testator authorizes his trustees to lease coal land, and they do lease it, the rents will pass under a devise of the income and proceeds of the land.

Petition of William Drake Loomis.

The opinion of the court was delivered February 23, 1884, by

RHONE, P. J.—The trustee of this estate is called upon by the petitioner to account and pay over to him certain coal rents. The trustee answers that the petitioner is not entitled to the rents, and this demands of us a construction of the decedent's will. Something was said on the argument about the meaning of the phrase, "The annnal income and proceeds of any accumulations thereof," as found in the 6th section of the will. We think it too clear for serious argument that the petitioner is entitled for life to the annual income and proceeds of the whole residuary estate, and that he is not limited to the mere interest on the accumulations thereof. The single clause of the will which admits of any double reading is the one quoted, and when read in connection with the rest of the instrument must be held to have reference solely to the only accumulations provided for, to wit: during the period prior to the time when the petitioner should arrive at the age of twenty-two years. We cannot read this clause as if it were written: the trustees shall then pay over to the grandson the annual income and the proceeds of any

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accumulations thereof—nor the annual income and proceeds or any accumulations thereof; neither may it be read precisely as written and make sense without reference to the other parts of the will. The intention obviously is to give the grandson the income and proceeds of her residuary estate and of those accumulations, if any, which she had just provided should be made during his minority. If the grandson is to have the annual income and proceeds of the estate, there can be no accumulations, and if the whole annual income and proceeds of the estate is to be accumulated—capitalized—then he gets nothing. To be more liberal, the term *interest*, and not income and proceeds, would express the idea of the product of capital. Again, the personal estate, which consists of money, bonds and stocks, is already capitalized, so that, according to the literal meaning of the phrase in question, this principal legatee can only get the interest on the interest.

Assuming, then, that the grandson is to have the entire income of the estate, we arrive at the main question in dispute, which may be presented as follows: In the 6th section of the will, the testatrix makes these provisions for the disposition of the residuary estate: "I do give, devise and bequeath all the rest, residue and remainder of my estate, real, personal, and mixed (subject to certain immaterial charges), unto Eliza J. Perry and A. J. Pringle, or their successors, in trust, nevertheless, to and for the use, property, and benefit of my said grandson.

The following clauses provide that the trustees shall apply the annual income and proceeds of the estate to the repairs, benefit, and improvement of the estate, and as far as may be necessary to the support, maintenance, and advancement in life of the said grandson until he attain the age of twenty-two years, "and upon the arrival of my said grandson at the age of twenty-two years, then to pay over to him the annual income and proceeds of any accumulations thereof during his natural life," with remainder to his children and their issue, and in default thereof, then to others named. The other material clause of the will reads (seventhly), "I order and direct that my farm of about one hundred acres in Newport township, * * * and likewise the place where I now live on Main street, shall, under no circumstances, be sold during the life of my said grandson, but my trustees may, if they

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deem it proper, lease the 'Newport farm' for coal mining purposes." The trustee has leased the Newport farm for coal mining purposes, and produces a copy of his lease, wherein it appears that all the coal has been leased at a certain rate per ton, and that the fixed annual minimum rent is about fifteen hundred dollars. The question presented is: Shall the trustee pay over to this petitioner the whole coal rent, or only the interest on the same? Do such rents constitute the "income and proceeds" of the lands, or are they principal or *corpus* of the estate to be capitalized for the benefit of the remaindermen? The rents or income of a mine opened by the decedent in his lifetime has always been held to be income, and as such go to the tenant for life. Neel *v.* Neel, 7 Harris, 323; Irwin *v.* Covode, 12 Harris, 162; Griffin *v.* Fellows, 32 Smith, 114; Westmoreland Coal Co. Appeal, 4 Norris, 344. Whether the rents received under a coal lease, made by executors or trustees in pursuance of testamentary powers, shall be considered as income or as principal must be determined from the intention of the testator. Eley's Appeal, 40 Leg. Int. 435; 12 L. L. R. 325, 2 Kulp, 467. A testamentary power to lease mineral lands, when exercised, puts the property and its rents on the same footing as if the testator had leased it or opened the mine himself, so that a devise of the income and proceeds of such land for life will carry the rents unless a contrary intent appear from the whole will. Eley's Appeal, ut supra. The absence of an express provision for the accumulation and investment of such rents, and for their final distribution after the death of the tenant for life, are sufficient evidence of an intent to pass the same under a provision to pay the income and proceeds of land to one for life. Id. These rules of law have a complete analogy in the character of the proceeds of a sale of land made under a testamentary power, the rule in such cases being that the power of sale works a conversion of realty into personalty for all purposes necessary to effectuate the intention of the testator. McClure's Appeal, 22 Smith, 414, and cases there cited; Peterson's Appeal, 7 Norris, 397. Again, it is a familiar rule of law that the first taker under a will is presumed to be the favorite of the testator, and in doubtful cases the construction leans in favor of making the gift to him as effectual as possible. Grim's Appeal, 8 Norris, 333.

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Tested by the foregoing rules, we deem it clear that the petitioner is entitled to the whole coal rent, less the taxes and other charges named. This view of the case is strengthened by a careful reading of the 7th section above quoted, the substance of which is that the trustees may not sell the farm during the life of the grandson, but they "may, if they deem it proper, lease it for coal mining purposes." This conveys the idea that the grandson's income may not be increased by a sale of the farm and the consequent interest on the fund, but that such income may be enlarged by a lease of the coal under the farm. It is true a dishonest or partisan trustee under this view of the case might have made such a lease as would have passed the whole estate in the coal to the grandson within a few years under the name of rent, while he was expressly forbidden to sell it. We answer, the lease in hand is on such ordinary terms as show no dishonesty, and beside the testatrix must have known that the effect of a coal lease is in the end to transfer the entire estate to the lessee as fully as a sale could do with the payment of the purchase money in instalments. The logic is that a coal lease is a sale of the coal in place, and consequently a sale of the *corpus*, but the legal conclusion as set forth in Eley's Appeal is that, where, as here, a testator authorizes his executors and trustees to lease coal land, and they do lease it, the rents will pass under a devise of the income and proceeds of the land. It will be observed that the testatrix has not only used the word "income," but has added the words "and proceeds," which is a more comprehensive term, and may be very appropriately applied to the rents of the coal mine which she authorized her trustees to open. The word "proceeds" is defined by Bouvier to mean "money, or articles of value, arising or obtained from the sale of property," and by Wharton "the sum, amount, or value of goods sold, or converted into money."

It is therefore ordered, adjudged, and decreed that the respondent account and pay over to the petitioner the amount admitted by his answer to be in his hands, to wit: the sum of three hundred and seventy-five dollars, and judgment is entered accordingly.

George K. Powell, for appellants.

E. P. & J. V. Darling, Geo. B. Kulp, contra.

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TREASURER'S SALE OF SEATED LANDS in Luzerne County. In pursuance of the several Acts of Assembly regulating the sale of seated lands returned to the Commissioners, I will expose to public sale, on the second Monday of June next (ninth day), at the Court House, in the city of Wilkes-Barre, the lots and tracts of seated lands described in the following list, unless the taxes are paid before that time.

BLACK CREEK TOWNSHIP.

Lot	Boyle, Philip	$	73
Lot	Distlehurst, France		26
Lot and house	Farmier, Henry		41
Lot	Farmier, Jacob		37
Lot	Gallagher, Manus		62
Lot	Lebo, George		73
Lot	Myers, W J.		11
Lot	McGee, Daniel		73
Lot	Smith, Aaron	1	39
Lot and house	Schwartz, Charles	1	95
Lot	Young, Joseph		81

CONYNGHAM TOWNSHIP.

House and lot	Deitrick, John	2	23
House and lot	Moyer, Lazarus	4	71
Lot	Morgan, Ebenezer	1	17
10 a. and 2 houses	Kepner, John G	2	06
55 acres	Stackhouse, John, Estate	5	74
100 acres	Stackhouse, Charles	4	80

DALLAS TOWNSHIP.

25 acres	Kern Mary	1	08

DENISON TOWNSHIP.

120 acres	Decker & Ayres	13	57
50 ac. and house	Burns, Frank	15	71
Lot and house	Clark, Daniel	2	30
100 a., ho. and ba.	Cannon & Sharp	21	97
Lot and house	Costello, John	1	12
406 acres	Custard, Solomon	31	36
1860 a. 3 ho. and ba	Goedecke, A. P.	145	89
25 acres	Kinsly, Jacob	1	46
Lot and house	Kane, Dominick	3	45
Lot and house	Kenney, William	3	33
100 acres	Hoodmaker, Mrs.	13	58
150 acres	Lally, Patrick	8	77
50 a., ho. and barn	Mulhern, Dominick	4	58
1180 acres	Palmer, C. S.	104	43
Lot and house	Rankin, Mrs. A		70
50 ac. and house	Seipler, Conrad	6	70
50 acres	Winterstine, Sophia	7	05

DORRANCE TOWNSHIP.

51 acres	Balliet, Milton C.	1	23
64 acres	Davis, John D.		77
56 a. and 2 houses	Ellis, Owen, Estate	8	70
223 acres	Guldin, George W	8	26
51 acres	Stair, Morgan	1	17
13 ac. and house	Steele, John, Estate		61
100 acres	Woodring, William	1	20

EXETER TOWNSHIP.

Lot and house	Arnet, David	1	26
Lot	Coray, William H		60
Lot	Cohen & Jenkins		60
53 acres	Coray, George	16	15
Lot and house	Gray, E.	2	54
Lot	Richards, P. K		60
Lot	Tiner, Rev. J		60

FOSTER TOWNSHIP.

Lot	Acker, Abraham	3	60
Lot	Buckley, Charles	1	00
54 acres	Gilmore, Henry	2	36
Lot	Kurtz, Godfrey	2	67
Lot and house	Belles, William	7	06
Lot and house	Krause, Jacob	15	97
House and lot	Kocher, Job	6	22
109 acres	Morrison, Sarah	16	99
165 acres	Morrison, Catharine	16	89
100 acres	Meyers, P. S.	6	05
Lot and house	Surtees, William	7	63

FAIRMOUNT TOWNSHIP.

200 acres	Devans, Benjamin	11	48
50 acres	Hilgert, John	4	05
50 acres	Koons, J. S	4	05
57 acres	Nevil, James	1	03
25 acres	Everett, George		75
50 acres	Fuller, J. M	$ 1	05
130 acres	Kleintob, William	6	24
56 ac. and house	Larrish, Hannah	1	67
2 ac. and house	Santee, E. M.		84

HUNTINGTON TOWNSHIP.

26 acres	Brandon, Fanny	7	70
38½ acres	Huffman, Elizabeth		65
61½ acres	Huffman, Warren	7	89
10 ac. and house	Souder, George, Estate	1	38
24 acres	Eveland, William G	3	34
1 acre	Norris, Sarah		13

HUGHESTOWN BOROUGH.

Lot	Longstreet, Att'y	1	24

HUNLOCK TOWNSHIP.

45 acres	Ackley, Susan	9	53
47 acres	Higgens, John	9	94
100 acres	Koons, D. S	11	25

HOLLENBACK TOWNSHIP.

28 ac. and house	Nauss, Michael, Estate	1	98
Lot	Sanderling, W. P.	1	72

HANOVER TOWNSHIP.

Lot	Gough, John	1	86
Lot	Joslin, Sarah		60
Lot	Jones, John T		45
Lot	McGouldrick, James		45
Lot and house	Perkins, H. C	3	70
5 lots and 4 houses	Smith, Patrick	3	26

HAZLE TOWNSHIP.

2 lots	Hughes, William M. & B. E.	3	95
2½ lots	Seger, John G	2	60
2 lots	Smith, W. W	1	35

HAZLETON BOROUGH.

Lot	Boyle, Anthony	2	78
Lot	Bush, Simon	2	78
Lot	Doud, John	2	91
Lot	Horn, Henrietta	2	91
Lot	Jones, John	1	82
Lot	McGinty, Neal	6	55

JACKSON TOWNSHIP.

32 acres	Stuckey, James	2	80

JENKINS TOWNSHIP.

Lot and house	Manly, Michael	2	90

K'NGSTON TOWNSHIP.

Lot	Bennett, William, Estate	1	22
Lot	Croghan, Mrs	1	47
127 acres	Coray, George	134	38
3 acres	Church, George H	2	73
House and lot	Green, David W	9	33

LEHMAN TOWNSHIP.

50 acres	Bishop, Palmer, Estate	5	41
75 acres	Cease, George	7	96
94 acres	Cease, George and Josiah	8	47
177 acres	Cease, Philip and Josiah	16	29
194 acres	Cease, George and Josiah	20	92
78 acres	Disque, Christopher	8	45
74 acres	Cease, George and Josiah	7	75
56 acres	Matthews, John	2	02
¼ acre	Wolf, Lorenzo	1	45

LAKE TOWNSHIP.

110 acres	Atherton, James P.	6	39
290 acres	Foss, Demming	1	75
18 acres	Garringer, C. F	1	86
26 acres	Kocker, I. D.	3	37
69 acres	Wagner, Edward	5	59

LAUREL RUN BORQUGH.

2 ac and house	Chase, E. H	2	76
101 acres	Dana, Metcalfand Henry, Est	11	63
221 acres	Metcalf, Rowland	25	43
3 ac. and house	Tamany, Moses C	11	50
36 acres	Winchester, Martha C	19	70

NESCOPECK TOWNSHIP.

32 acres	Stookey, James		75

NANTICOKE BOROUGH.

2 lots	Luke, M. L	27	62

PITTSTON TOWNSHIP.

Lot	Barber, S. G.	3	78
House and lot	Davis, J. W	2	49

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PITTSTON BOROUGH.

3 houses and 3 lots	Gethings, William	$138 95
½ acre	Keating, William	1 03
½ acre	McHugh, Frank	1 03
Lot and house	O'Donnell, James	2 63
2½ acres	Gidding, Nathaniel	60 03
Lot and house	Crawford, L. W	24 82
Lot and shop	Blackman, C. S	36 38
3 lots	Holland, Wm. or Morris M.W.	3 76
Lot	Collican, James	2 09
Lot	Daly, Peter	3 11
Lot	Sheridan, Dennis	3 71
Lot	Williamson, John	7 81
House and lot	Stout, Mrs. Hannah	6 01

PARSONS BOROUGH.

Lot	Williams, Essey	1 01
Lot	Jones, W. W.	4 95

PLAINS TOWNSHIP.

16 acres	Stark, G. H	5 44

PLYMOUTH TOWNSHIP.

Lot and house	Albrighton, Jack	1 53
8 acres	Bailey, P. S	1 27
20 ac. and house	Beam, Charles	1 03
Lot and house	Barry, Charles	2 35
House and lot	Barry, Benjamin	5 78
House and lot	Barney, George W	2 04
40 acres	Burger, John	2 08
Lot and house	Connell, James	5 19
180 a., 2 ho. and ba.	Cease, Jacob, Estate	10 04
40 acres	Cease, Josiah	1 15
House and lot	Dodson, Lafayette, Estate	1 93
4 acres	Dodson, Thomas, Estate	91
House and lot	Delaney, William	1 20
House and lot	Dull, Henry	1 09
3 ac. and house	Egberton, J. S., Estate	2 69
Lot and house	Harvey Bros.	2 55
18 acres	Humphrey, John	1 10
29 a., ho. and barn	James, William	1 95
House and lot	Johnson, Henry	95
House and lot	Johnson, James	1 20
118 acres	Kaizer, Jesse	5 33
140 a. and 6 houses	Lance, William L	71 51
600 acres	Merriman, E. L., Estate	11 22
Lot and house	Morgan, Mrs. Martha	1 76
2 lots and 2 houses	Murphy, Martin	3 37
2 houses and lot	McKeel, Sammy	1 03
1 acre and house	Miller, George	1 08
Lot and house	Puterbaugh, George	2 37
Lot and house	Pennsylvania Canal Co.	2 37
Lot and house	Plotts, Christopher	1 53
5 acres and house	Vane, Charles	2 44
29 a., ho. and barn	Williams, James	3 41

PLYMOUTH BOROUGH.

Lot and house	Nesbitt, S. P.	10 05
Lot and 2 houses	Wamby, Job	10 05
Lot and house	Hatcher, Emanuel	3 00
Lot	Allen, Otis	1 67
Lot and house	Berry, Peter, Estate	8 04
House and lot	Murphy, James	3 35
Lot	Fahey, William	4 71
Lot	Watkins, Griffith	84
Lot and house	Ely, Jacob	5 02

ROSS TOWNSHIP.

¼ acre	Bowman, George	10
100 ac. and house	Fisk, S. H.	3 17
132 acres	Harvey, A. N	4 02
246 acres	Jamison, Alexander	9 62
50 ac. and house	Learned, Joseph H.	2 11
315 acres	Ruggles, Josiah	36 79
620 a. and 2 houses	Strickland, Thomas	51 66
30 acres	Totten, Joseph H	2 87
92 acres	Hazlehurst, George	1 84

SHICKSHINNY BOROUGH.

Lot and foundry	Beadle, Hartman and Masters	7 95

SUGAR NOTCH BOROUGH.

Lot	Riley, Joseph	1 21

SLOCUM TOWNSHIP.

50 a., house and lot	Fox, Jacob	3 75
88 8-9 acres	Vandermark, Daniel, Estate	12 48

SALEM TOWNSHIP.

130 acres	Stuart, Frank	10 10

UNION TOWNSHIP.

16 acres	Labar, Mary	$ 86
52 acres	Marvin, John, Estate	21 45
10 ac. and house	Scott, John	1 86
200 acres	Walker & Blue	10 88
40 acres	Koons, B. D.	14 15

WEST PITTSTON BOROUGH.

Lot	Crawford, J. C.	3 12
Lot and house	Drum, Martin, Estate	2 91
Lot and house	Drum, Mrs. John	9 13
Lot	Lee, Frank J.	5 19
Lot	Longwell, William	6 23
2 lots	Searfoss, Bernard	7 27

WHITE HAVEN BOROUGH.

Lot and house	Gardner, Charles	6 84
Lot	Karlopp, Reinold	4 89
Lot and house	Mulvana, Maria	5 85

WRIGHT TOWNSHIP.

252 acres	Evans, Griffith	17 70
360 acres	Heckman, Adam	18 09
447 acres	Miffiin, Benjamin	22 49
170 a. and 2 houses	Reese, A.	25 59
20 acres	Reese, A.	1 34
396 acres	Ripple & Lines	19 80
400 a. and 2 houses	Perry, Rollin	43 89
50 acres	Steadman, William	2 54
64 acres	Stivers, Thomas B.	8 07
112 ac. and house	Vandermark, William, Est	14 87

WILKES-BARRE TOWNSHIP.

South District.

Lot and house	Batterton, John	95
15 acres and lot	Brown, Joseph	12 49
110 acres	Dana, Metcalf and Henry, Est	62 70
Lot	Gallagher, Catharine	51
Lot and house	McConologue, Mrs. Rose	1 68
4 acres	Winchester, S. S.	6 24

North District.

Lot and house	Gordon, John	57
Lot	John, Thomas E.	4 30
Lot and house	Prosser, Elizabeth	38
Lot and house	Shovlin, Daniel	60
14 acres	Winchester, S. S.	19 80

WILKES-BARRE CITY.

First Ward.

Lot	Berryman, Frank, River st.	7 80
Lot	Bank, Bernard, Maple st	8 78
House and lot	Harrison, Anthony, Main st.	7 31
Lot	Hawley, P., River st.	7 34
Lot	Klein, Adolph, River st.	5 62
Lot	Kildea, James, Walnut st.	4 09
Lot	Louder, B. F., Main st	9 75
Lot	Lenahan, Patrick, Main st	4 88
Lot	Meeter, Joseph, Kulp ave.	4 88
Lot	Meeker, William, Franklin st	4 88
House and lot	O'Malley, John, Est., Linden st.	4 55
House and lot	Redmond, Michael, Chestnut st.	4 23

Second Ward.

Lot	Castle, Mrs. Ellen, Scott st.	5 71
House and lot	Clark, Peter, Kidder st.	6 18
Lot	Crawford, Ira M., Scott st.	5 68
Lot	Earlich, Jacob, Est., Scott st.	5 68
House and lot	Fletcher, Sibbella, Scott st.	7 48
Lot	Hennigan, P., Scott st	5 68
House and lot	Hilbert, George, Est., Scott st	7 15
Lot	Jennings, Peter, Kidder st	4 09
Lot	Kern, Philip, Kidder st.	4 09
House and lot	Landmesser, N. F., Scott st.	7 21
Lot	McGavin, John, Bowman st.	4 09
House and lot	McDonald, J. P., Bowman st.	5 68
Lot	Myers, Philip & Lindacher, Scott	5 71
Lot	Kennedy, Mrs. Owen, Scott st	21 95
3 acres	Patterson, Mrs. Louisa M., Scott st.	21 96
House and lot	Richards, Thos., cor. Kidder & Laurel	7 95
Lot	Reed, Patrick, Kidder st	4 09
Lot	Sherry, Owen, Kidder st	4 09
Lot	Tracy, James, Bowman st	4 40
Lot	Ward, John A., Scott st	5 71
3 acres	Wheeler, Mrs. Harold, Scott st.	21 96
Lot	Ziegler, George, Kidder st	2 46

Third Ward.

Lot	Empire B. & L. Ass'n, Grant st.	4 14

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House and lot Keegan, William, Est., Wells st. $ 7 48

Fourth Ward.

House and lot Hartsell, Mrs. Maria, River st . 7 52

Fifth Ward.

House and lot Kirkendall,Geo.W.,Washington 31 09
House and lot Kirkendall,Geo.W.,Washington 12 15
Lot . . . . . McGrath, Patrick, Market st . . 10 34

Sixth Ward.

Lot and house Brown, Henry, Northampton st. 10 95
Lot . . . . . Smith, James, Sherman st . . . 3 90
House and lot Tillman, Mrs. Ispiah, Northamton 7 76

Eighth Ward.

Lot and house Kirkendall, George W., Canal st. 23 50
Lot and 2 ho. Zeigler, Chas. A., Washington st. 33 76
House and lot Zeigler, Chas. A., Market place 5 84

Ninth Ward.

Lot . . . . . Chapin, Mrs. Martha, Grant st . 3 95
House and lot Zimmerman, Joseph, Hancock st. 5 18

Tenth Ward.

House and lot Brown, Ann Eliza, Est., River st. 12 22
Lot . . . . . Davis, Mary Ann, Academy st . 15 28
Lot . . . . . Davis, Mary Ann, Academy st . 20 01
Lot . . . . . Davis, Mary Ann, Academy st . 13 78
5 acres . . . Davis, Mary Ann, Academy st . 5 88
Lot . . . . . Davis, John, Est., Academy st . 36 43
Lot and house Davis, John, Est., River st. . . 101 29
Lot . . . . . Wadhams, Calvin, H B. Payne, Assignee, West River st . . . 17 30

Eleventh Ward.

House and lot Davis, John, Main st. 31 02
House and lot Louder, John, Est., Ash st . . . 9 17
House and lot Louder, John, Est., Ash st . . . 6 27
Lot and 2 ho. Neiir, W. W., Mechanic's alley. 5 54
House and lot Ziegler, C. A., Main st 31 26
House and lot Ziegler, C. A., Hazle ave. . . . 6 37

Twelfth Ward.

Lot . . . . . Klennart, John, Careytown road 4 40

Thirteenth Ward.

Lot . . . . . Ellas, F. A., Douglass st 5 82
Lot . . . . . Kidder, C. P., Hazle ave. . . . 12 29
Lot . . . . . Kidder, C. P., Park ave 52 79
Lot . . . . . Kidder, C. P., Dana st. 45 23
Lot . . . . . Kidder, C. P., Henry st 7 56
Lot . . . . . Kidder, C. P., Moyallen st. . . . 7 56
Lot . . . . . Kidder, C. P., Hancock st . . . 5 03
Lot . . . . . Kirkendall's half-interest in Kirkendall & Troxell, Hazle st . . 10 05
Lot and house " " Prospect st . 2 45
Lot . . . . . " " Prospect st . 1 53
House and lot " " Stanton st . 2 17
House and lot " " Stanton st . 3 13
House and lot " " Stanton st . 2 17
Lot . . . . . " " Stanton st . 1 51
House and lot " " Stanton st . 2 18
4½ acres . . " " 22 62
House and lot " " Stanton st . 2 27
House and lot Parks, Joseph, Lincoln st. . . . 5 77
Lot and 2 ho. Pennell, J. B., Dana st 11 16
Lot . . . . . Shovlin, Francis, Prospect st . . 3 02
Lot . . . . . Thomas, John P., Stanton st . . 2 25
House and lot Pennell, J. B., Railroad, bel. Farrow 4 26
25 acres . . . Dana, Andersen, Est., e. of Hanc'k 101 16

Fourteenth Ward.

House and lot Ayres, L. L., Main st 33 29
Lot . . . . . Anhiser, Miss Mary, Hazle st . 7 11
House and lot Caffrey James, township line . . 6 60
House and lot Cannon, John or Sarah, Hazle st 8 91
Ho. and 2 lots Decker & Ayres, Blackman st . 9 21
Ho. and 3 lots Decker & Ayres, Blackman st . 19 53
House and lot Decker & Ayres, Hill st 4 02
Lot . . . . . Decker & Ayres, Jones st . . . 2 54
House and lot Decker & Ayres, Hill st 3 35
Lot . . . . . Decker & Ayres, Parrish st. . . 2 01
House and lot Decker & Ayres, McLean st . . 4 16
House and lot Decker & Ayres, Parrish st. . . 6 27
House and lot Davis, John A., Est., Hill st . . 4 99
House and lot Flynn, Patrick, Parrish st . . . 5 91
House and lot Flynn, Patrick, Hazle st 8 77
Lot . . . . . Flynn, Patrick, Murray st . . . 1 87
Lot . . . . . Gilligan, William, Blackman st . 3 79
Lot . . . . . Gilligan, John, Est., Gilligan's lane $8 85
House and lot Gilligan, John, Est., Hazle st. . 13 60
House and lot Harkness, T. C., Main st. . . . 8 91
5 acres . . . Harkness, T.C., Andover & Spring 20 10
House and lot Hammond, Thomas, Blackman st. 4 62
House and lot Hanlon, Frank, Est., High st. . 6 57
House and lot Harris, James B., Jones st . . . 3 75
Lot . . . . . Jones, Lydia, Hill st 3 35
House and lot Kinterman, Charles, Grove st. . 3 88
Lot . . . . . Louder, B. F., Blackman st. . . 7 07
House and lot Laning, John & Ayres L. L., Brown 6 03
Lot . . . . . Marsden, Sam'l or W W., Blackman 9 38
Lot . . . . . Meighan, Frank, Spruce st . . . 5 03
House and lot McLaughlin, Wm., Est., Miller st 3 59
House and lot Rourke, Rossanna, Jones st . . 2 21
House and lot Rafter, Patrick, Est., Murray st 1 34
House and lot Sturdevant & Goff, Blackman st. 4 09
House and lot Stair, Evan, Blackman st. . . . 3 76
House and lot Stair, Evan, Par.ish st 7 90
House and lot Ziegler, George, Est., Mill st . . 4 93
Lot . . . . . Stedman, E. H., McLean st . . 2 01

Fifteenth Ward.

Lot . . . . . Butler, E. G., Barney st 2 12
House and lot Decker and Ayres, Main st. . . 8 50
Lot . . . . . Gates, H. C , Hanover st. . . . 19 08
House and lot Hahn, Gustav, Main st. 16 45
Lot . . . . . Wilson, Thomas, Hanover st . . 6 72
House and lot Parks, Joseph, Church st. . . . 7 54

JOHN TURNBACH,
14-17 Treasurer.

TREASURER'S SALE OF UNSEATED LANDS in Luzerne County. Notice is hereby given, that, agreeably to the Acts of Assembly of the Commonwealth of Pennsylvania, directing the mode of selling seated and unseated lands for taxes, the following tracts and parts of tracts will be sold at public vendue, on the second Monday of June next (ninth day), at the Court House, in the city of Wilkes-Barre, for the arrearages of taxes due and costs accrued on each, respectively, unless the same be paid before the day of sale. Sale to commence at 10 o'clock A. M.

Acres.		
	BEAR CREEK TOWNSHIP.	
418 . .	Baird, Samuel	$40 54
359 . .	Dorrach, Agnes	33 98
359 . .	Dorrach, Thomas	33 97
440 . .	Dorrach, William	41 58
311 . .	McDowell, John	29 39
390 . .	Preston, William	28 73
439 . .	Price, Eli K	41 53
401 . .	Patterson, Robert	25 87
406 . .	Reece, Daniel	38 56
400 . .	Shephard, Joseph	37 80
401 . .	Thomas, John	25 88
178 . .	Twaddle, John	15 11
50 . .	Custer, Paul	1 37
350 . .	Custer, Samuel	9 48
	BLACK CREEK TOWNSHIP.	
321 . .	Dunlap, John	122 08
336 . .	Hammond, David	319 41
250 . .	Helm, Oliver	92 09
105 . .	Rope, Robert	39 93
355 . .	Rope, Simpson	128 79
266 . .	Stewart, William	101 16
110 . .	Stewart, William, jun	41 83
237 . .	Tittsworth, John	9 48
	BUCK TOWNSHIP.	
200 . .	McShane, Francis	19 20
200 . .	McShane, Ezekiel	19 20
	BUTLER TOWNSHIP.	
258 . .	Black, James	41 53
387 . .	Ewing, Jasper	24 48
180 . .	Gray, William	14 09
346 . .	Irwin, Robert	92 06
438 . .	Poultney, Benjamin	5 04
104 . .	Staffer, John	28 67
433 . .	Wilson, William	23 29
	DENISON TOWNSHIP.	
40 . .	Dyer, James	2 35
435 . .	Dorsey, John	25 66
435 . .	Fox, Samuel M	25 66
398 . .	Galbraith, Josiah	23 47

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Acres.		
297	Hamasel, Charles	$23 47
435	Wharton, Kearney	25 66
435	Wharton, Moore	25 66
400	Cottringer, Garrett	23 58
400	Cottringer, James	23 58
300	Miller, Charles	9 14
	DORRANCE TOWNSHIP.	
232	Catlin, Putman	23 75
422	Fuller, Stephen	39 66
133	Guier, John	12 52
90	Hawker, George	5 76
200	Steadman, William	18 80
389	Swain, John	36 58
250	Barge, Jacob	13 00
	EXETER TOWNSHIP.	
½ of 310	Worthington, Eliphalet	25 12
	FAIRMOUNT TOWNSHIP.	
20	Arnaut, Thomas	2 07
132	Arnaut, Thomas	11 47
438	Blakely, John	41 58
30	Beach, Susannah	2 85
301	Cope, Thomas P	28 57
438	Conrad, Matthew	41 58
260	Delaney, Molly	22 49
45	Gilpin, Samuel	4 29
156	Kerr, Joseph	5 77
260	Kidd, Simon	24 70
326	Paschall, Joseph	30 93
244	Plunkett, William	22 71
150	Skyron, John	14 25
407	Sansom, William	38 66
112	Whitford, Jacob George	9 62
	FOSTER TOWNSHIP.	
300	Brown, John	38 16
196	Barton, Thomas	24 35
25	Carson, Andrew	3 95
400	Calhoun, George	437 50
200	Edmunds, Peter	11 05
318	Hunter, Alexander	102 95
150	Morgan, James	41 12
322	Smith, Uriah	91 15
400	Steadman, Elizabeth	224 60
300	Steadman, Rebecca	167 63
130	Scott, Abram	22 89
97	Schrader, Philip	12 43
400	Tims, John	50 98
421	Weiss, Francis	138 18
200	Barton, Thomas	63 88
39	Wright, Josiah	10 80
	HANOVER TOWNSHIP.	
25	Collins, Oristus	4 52
116	Lot No. 2, 3d Division	20 88
116	Lot No. 16, 3d Division	20 88
110	Lot No. 17, 3d Division	19 81
116	Lot No. 18, 3d Division	20 88
	HOLLENBACK TOWNSHIP.	
100	Brady, Jane	14 63
92	Irwin, Charles	10 06
177	Steadman, Margaret	30 05
270	Thompson, Joseph	45 70
	HAZLE TOWNSHIP.	
450	Anderson, Jacob	629 10
400	Allibone, Thomas	279 60
200	Brady, William P	279 60
300	Beatty, Joseph	209 70
140	Beck, Paul	97 86
140	Bunting, Philip S	97 86
316	Bowen, Mary	192 26
437	Boller, Frederick	305 18
429	Carnes, Robert	299 97
140	Clark, Josiah	97 86
354	Chapman, Joseph H	247 44
200	Clark, Robert	104 13
100	Clark, William	60 45
413	Dixon, John	577 35
400	Douglass, Andrew	279 60
400	Ely, John	279 60
439	Irwin, William	306 60
400	Jackson, Jeremiah	560 57
400	Jordan, John	279 60
221½	Kunkle, John	154 84

Acres.		
391	Kunkle, Mary	$238
407	Kunkle, Christian	249
417¼	Kunkle, John J	260
439	Lattimer, James	306
446	Milligan, William	623
400	Morgan, John	279
140	North, Caleb	97
400	Rope, Daniel	279
400	Rope, John	279
400	Rope, Levi	279
400	Rope, Simon	559
400	Rope, Solomon	279
440	Rope, Nicholas	307
394	Roan, Flavel	550
100	Steadman, Rebecca	122
150	Scott, Abram	128
353	Steadman, James	246
400	Sitgraves, John	487
400	Smith, James L	279
400	Sproat, John	279
140	Sproat, William	97
	HUNLOCK TOWNSHIP.	
100	Dean, John R	12
150	Hunter, Alexander	22
20	Hoyt, Charles A.	2
80	Nesbitt, Abram	9
	JENKINS TOWNSHIP.	
149	Bedford, James S	59
30	Holden, Jacob	9
100	Lot No. 20, Certified Pittston	218
100	Lot No. 21, Certified Pittston	218
75	Lot No. 22, Certified Pittston	153
150	Lot No. 24, Certified Pittston	327
150	Lot No. 25, Certified Pittston	307
75	Lot No. 26, Certified Pittston	153
	LEHMAN TOWNSHIP.	
143	Lot No. 21, Certified Bedford	20
	LAKE TOWNSHIP.	
461	Bailey, Aaron	48
114	Carman, Michael	15
470	Chambers, H A.	48
240	Chambers, H. A.	42
406	Davis, Sarah	42
235	Davis, Joseph	24
108	Delaney, Margaret	13
252	Fell, Jesse	28
214	Hollenback, G. M.	38
300	Hine, C. W.	31
150	Hollenback, G. M.	27
179	Hermans, Simon	35
19	Hollenback, G. M.	4
432	McKloskey, David	51
232	Pierson, Samuel	27
197	Withey, James	35
14	Delaney, Thomas	
	NEWPORT TOWNSHIP.	
55	Lot No. 4, 3d Division	7
100	Lot No. 41, 2d Division	125
10	Of Lots Nos. 52 and 53, 3d Division	1
138	Of Lots Nos. 31, 33 and 35, 2d Division	84
	PITTSTON TOWNSHIP.	
275	Butler, Jonathan	86
220	Parker, William	68
86	National Anthracite Coal Company	32
27	Thomas, Jesse, part of Lot No. 65	8
5	Of Lot No. 46, Certified Pittston	1
60	Lot No. 47, Certified Pittston	111
	PLAINS TOWNSHIP.	
10	Downing, Daniel	2
134	Lot No. 11, Certified Pittston	161
31	Lot No. 12, Certified Pittston	40
152	Of Lots Nos. 1, 2, 3 & 4, Certified Pittston	112
	PLYMOUTH TOWNSHIP.	
215	Bradley, Phineas	11
800	Sunbury, Manor	72
6	Chambers, H. A.	
100	Wright, Harrison	
	ROSS TOWNSHIP.	
408	Blakely, John	48
230	Bowman, Thaddeus	18

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Acres.		
450	Bump, Jesse	$56 23
100	Bump, Joshua	12 50
497	Bump, Levi	60 98
410	Bump, Thomas	51 04
262	Custard, Mary	32 75
141	Delaney, Molly	17 62
400	Delaney, Nancy	49 98
316	Kidd, Aaron	39 47
143	Kidd, John	17 78
400	Kidd, Peter	49 98
213	Kidd, Simon	28 70
225	McLaughlin, Alexander	28 11
225	McLaughlin, Hugh	27 22
377	Meylert, Michael	47 13
427	Patterson, Alexander	54 31
260	Reese, James	32 49
286	Sansom, Joseph	32 86
321	Sansom, William	40 09
342	Sharp, John	42 42
400	Sharp, Thomas	49 98
75	Woodside, Eleanor	11 08
	SLOCUM TOWNSHIP.	
95	Lot No. 4, Certified Newport	3 97
	SUGARLOAF TOWNSHIP.	
373	Rope, Job	553 89
64	Rope, Leonard	644 82
372	Rope, Samuel	552 62
457	Rope, Henry	262 20
334	Steadman, Margaret	41 42
	UNION TOWNSHIP.	
150	McNeal, James	27 72
200	Richards, Casper	37 07
324	Wright, Joseph, Estate	59 42
	WRIGHT TOWNSHIP.	
59	Bell, Joseph	9 44
216	Barge, Jacob	29 63
53	Davidson, William, 1st	8 42
275	Evans, Griffith	30 11
50	Guier, Adam	13 60
150	Hollenback, Eleanor	49 35
400	Heller, Susannah	64 40
100	Howell, Joseph	16 00
131	Millier, Catherine	20 94
100	Miller, Charles	16 00
468	Porter, John	74 89
100	Riley, William	16 00
221	Steadman, William	37 55
172	Sheafe, William	32 15
447	Sheafe, Henry	75 45
317	Woodward, George W.	50 58
116	Lot No. 9, Certified Hanover, 3d Div	18 55
110	Lots Nos. 14 & 15, Cert. Havover, 1st Div.	18 75
116	Lot No. 19, Certified Hanover, 3d Div	18 16
185	Lots Nos. 22, 23 & 24, Cert. Han'r, 1st Div.	31 44
80	Lot No. 28, Certified Hanover, 1st Div.	12 80
76	Lot No. 29, Certified Hanover, 1st Div.	13 06
123	Lot No 28, Certified Hanover, 3d Div	19 66
34	Lot No. 18, Certified Hanover, 1st Div.	15 05
400	Brink, John	58 41
231	Lots Nos. 20 and 21, Certified Hanover	34 77
16	Bell, Joseph	31
123	Chambers, H. A.	2 35
100	Evans, Griffith	1 90
434	Gardner, Richard	8 24
405	Hickman, Adam	7 73
317	Mifflin, Benjamin	6 02
100	Perry, Roland	1 90
431	Roberts, William F	8 19
116	Lot No. 20, Certified Hanover	2 21
116	Lot No. 19, Certified Hanover, 1st Div.	2 21
125	Lot No. 29, Certified Hanover, 3d Div	2 45
92	Lot No. 16, Certified Hanover, 3d Div	1 74
94	Lot No. 18, Certified Hanover, 3d Div	1 80

JOHN TURNBACH,
Treasurer.
14-17

CHAS. D. FOSTER,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

ESTATE OF JOSEPH WILLIAMS, LATE OF Pittston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN W. WILLIAMS,
GEO. S. FERRIS, Pittston, Pa.
Attorney. 11-16

ESTATE OF OWEN JONES, LATE OF PLYmouth township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN R. DAVIS,
D. M. JONES, West Nanticoke, Pa.
Attorney. 11-16

ESTATE OF CLARA HALFPENNY, LATE of West Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN W. DAVIES,
D. M. JONES, Pittston, Pa.
Attorney. 12-17

ESTATE OF CLINTON W. YAPLE, LATE of Shickshinny, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. A. CAMPBELL,
W. S. McLEAN, Shickshinny, Pa.
Attorney. 12-17

ESTATE OF ELIZABETH MAY, LATE OF Foster township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN H. MAY,
G. L. HALSEY, White Haven, Pa.
Attorney. 13-18

ESTATE OF BERNARD DUFFY, LATE OF Plymouth township, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES L. LENAHAN,
13-18 Wilkes-Barre, Pa.

ESTATE OF ALFRED S. DENNIS, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

L. A. BARBER,
14-19 Forty Fort, Pa.

ESTATE OF FREDERICK BACH, SR., LATE of Wilkes-Barre, deceased.

Letters of administration, *de bonis non, cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons having claims against the same will present them for payment, and those indebted thereto will please make immediate payment to

G. A. BACH,
M. E. WALKER, Shickshinny, Pa.
Attorney. 14-19

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LICENSES.

Notice is hereby given, that the following persons have filed their applications for license to keep hotels and restaurants, and to sell liquor by the quart, in the office of the Clerk of the Court of Quarter Sessions of the county of Luzerne, and that said applications will be heard by the court on Monday, April 21, 1884:

HOTELS.

H. & McG.	Michael McKiernan	Ashley.
"	John Kugler	"
Farnham	Daniel H. Evans	"
J. L.	M. A. McCarty	"
Landmesser	Peter Smith	"
Hakes	William Tate	"
Hines	William F. Imlay	"
Hahn	Daniel B. Kegle	Black Creek Tp.
Brundage	W. J. Myers	"
"	Charles Coleman	"
Harding	Barnet Searfoss	Bear Creek Tp.
Kline	Anna M. Drum	Butler Tp.
"	David Mace	"
"	Joseph Woodring	"
"	Lewis Dinklacher	"
Kisner	George Drum	"
Gorman	Dennis B. O'Donnell	"
Hahn	Thomas Lannon	"
Brundage	Werner Smith	Conyngham Tp.
"	G. W. Mauger	"
"	Charles W. Richards	"
Hakes	Philip Raub	Dallas.
Brundage	Adam Hilderbrand	Dorrance Tp.
Hughes	Christ. Remming	Exeter Tp.
Gates	John L. Lewis	Fairmount Tp.
Darlings	Jos. Hacker	"
Hayes	John Melley	Foster Tp.
"	Stephen Dresher	"
"	Albert Goeppert	"
"	Robert Fuchs	"
"	William P. Jones	"
"	Henry Dunneman	"
Kline	Conrad Schaub	"
Halsey	Patrick McGeehan	"
Hakes	Thomas Totten	Franklin Tp.
Hayes	William Gibbons	Freeland.
"	John Yannis	"
"	Michael Zemany	"
"	Robert Wallace	"
"	William Jenkins	"
"	William L. Jones	"
H. & McG.	James Caffrey	Hanover Tp.
Derr	S. J Faux	"
Hahn	John H. Washburn	Hollenback Tp.
Martin	Daniel Warner	Hunlock Tp.
E. A. L.	A. P. Coles	"
Kline	Robert Gauff	Hazle Tp.
"	Jeremiah Thrash	"
"	John N. Landmesser	"
McManus	C. Herron	"
Weaver	William Horn	"
Troutman	John McNeal	"
Gorman	James McFadden	"
McManus	William Bach	Hazleton.
"	George Gibbons	"
"	Martin Modjeska	"
"	Henry Coller	"
"	Philip Stocker	"
"	Christian Mathes	"
Gorman	James Fitzpatrick	"
"	Jos. Piehota	"
Kline	Frederick Meirs	"
"	Adam Schreiner	"
"	Philip Feist	"
"	Henry Krapf	"
"	Thomas P. Morgan	"
"	John Stein	"
"	A. F. Volkenand	"
"	Anton Wagner	"
"	John V. Wagner	"
"	William Hartig	"
"	Samuel B. Cressman	"
"	Charles Karshner	"
"	Otto Brien	"
"	Catharine Krapf	"
Kline	Thomas Laughran	Hazleton.
"	John Knies	"
"	George Shafer	"
"	William Bettenhausen	"
"	John F. Yeager	"
"	George Seigel	"
Kisner	H. E. Desh	"
"	Elizabeth Wiegand	"
Hahn	Jacob Rosenstock	"
McLean	Munson Sigler	Jackson Tp.
Darlings	Samuel Hodgdon, jun.	Jenkins Tp.
Reynolds	Nathan Kunkle	Kingston.
"	T. McDonough	"
Darte	Peter Wolcott	"
Martin	S. R. Ferrell	"
Campbell	John Batterton	Kingston Tp.
Martin	Henry Kemp	"
"	John H. Degraw	"
B. & N	John Moore	"
Harding	William Jones	"
O'Neill	Robert Turner	"
Brundage	Martin Steele	"
Martin	James W. Rhoads	Lehman Tp.
Hahn	C. D. Skodden	"
Phoenix	E. W. Drake	"
Dickson	George Woodyatt	Luzerne.
Hines	H. C. Beck	"
"	Daniel J. Collins	"
Reynolds	E. W. Steel	"
J. T. L.	Thomas Sage	"
Moore	Michael Athey	Miners Mills.
"	Michael Sweeney	"
Chapin	J. H. Oplinger	Nanticoke.
"	Robert Holsworth	"
"	Frank Patszyknowski	"
Osborne	Xavier Wernet	"
Magee	I. K. Fellows	"
Hines	Andrew Dombroski	"
Strauss	Adam Dombroski	"
John Lynch	John Staedt	"
Osborne	C. C. Williams	Nescopeck Tp.
Plumb	W. C. Gruver	Newport Tp.
Hakes	E. C. Line	"
Chapin	William Croop	"
Hines	Mrs. Jane Noble	"
J. T. L.	John Hares	Parsons.
"	John H. Thomas	"
Jones	Catharine Morgan	"
Brundage	John Schumacher	"
I. P. Hand	John Amfield	"
J. L. L.	P. Battle, Agt	Pittston.
H. & McG.	Paul Bohan	"
Koon	William Bechtold	"
"	John Donley	"
"	John F. Eichholzer	"
"	F. L. Farnham	"
"	R. Streng	"
"	Joseph Weber	"
"	George Reudelhuber	"
"	John W. Davis	"
"	George Smith	"
Bauman	F. W. Ginz, jun	"
Miller	H. W. Lee	"
Hughes	Michael Murray	"
"	Thomas Cody	"
"	C. H. Schuyler	"
Mosier	J. R. Ehret	"
"	Thomas B. Leonard	"
"	James B. Keeler	"
Harding	Winifred Carbine	"
J. T. L.	F. B. McCanna	"
H. & McG.	Archie McQueen	Pleasant Valley.
Martin	Dewitt C. Farrell	"
Moore	Thomas Hooper	Plains Tp.
J. T. L.	Bridget Mangan	"
H. & McG.	C. M. Williams	"
J. L. L.	Cornelius Boyle	"
Hakes	Thomas Dixon	"
J. L.	Patrick Mangan	Plymouth.
Magee	James Eley	"
"	K. A. Frantz	"
"	George P. Richards	"
"	R. W. Roberts	"
"	Thomas B. Case	"

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McAlarney	Thomas Appleton	Plymouth.
J. T. L	Thomas Carter	"
Magee	John Dempsey	Plymouth Tp.
McLean	James J. Ruch	"
J. T. L	James Duffy	"
Cannon	W. W. Smith	"
McL., G	Michael Walsh	"
Patrick	Amelia P. Rodgers	"
O'Neill	Edward McAnany	"
Martin	J. J. Hess	Salem Tp.
Gates	George Fisher	
J. L	Joseph M. Turner	Shickshinny.
O'Neill	William Shoemaker	"
Miller	A. M. Coolbaugh	"
Weaver	William H. Brommer	Sugarloaf Tp.
"	Peter Weaver	"
Kline	A. J. Minnick	"
"	Rachel Frederick	"
Kisner	Abraham Hetler	"
Brundage	Edward Henry	"
"	William Else	"
J. T. L	John T. Conway	Sugar Notch.
Plumb	Evan T. Jones	"
"	David Appleton	"
Jones	John Elliott	"
Gates	Minor Benscoter	Union Tp.
Halsey	Samuel Altemus	White Haven.
"	Lydia A. Driggs	"
"	Theo. Runke	"
Shortz	Elizabeth Smith	"
Hahn	Gustav Wech	Wright Tp.
H. & McG	George Carey	"
O'Neill	Thomas Caffrey	Wilkes-Barre Tp
"	Ann Kane	"
Osborne	P. J. Foley	"
	WILKES-BARRE.	
O'Neill	John Brady	First Ward.
"	William P. Gardner	"
J. L	Martin Kingeter	Second Ward.
"	A. J. Lewis	"
"	Joseph Zoeller	"
"	J. S. Zirnhelt	"
Cannon	John Mundy	"
Campbell	John Stetzer	"
Strauss	Caroline Bausch	Third Ward.
Hahn	John Becker	"
J. T. L	John Kern	"
J. L. L	H. H. Webb	"
McL. & S	John Storz	"
Mahon	Michael Meehan	"
Kulp	S. Bristol	Fourth Ward.
Bulkeley	J. M. Courtright	"
Campbell	William E. Farrell	"
Miller	W. J. McLaughlin	"
J. T. L	Jacob Reuffer	"
Hines	Thomas Trembath	"
Mahon	Philip Moyer	"
Darte	John E. Hunter	"
Mahon	William Dettmar	Fifth Ward.
"	Adam Price	"
"	P. Cullen	"
"	Samuel Geissinger	"
"	F. J. Neemyer	"
Robinson	William Zirnhelt	"
"	Frank Flosser	"
"	G. A. Krothe	"
"	August Grosser	"
"	Owen O'Neil	"
Bulkeley	Moses Vancampen	"
Campbell	Andreas Mutter	"
Miller	Julia A. Shearer	"
Cannon	Jacob Schmidt	"
O'Neill	Aaron Whitaker	"
Jones	Jeanette Williams	"
Shortz	John D. Birmingham	"
Hakes	George W. Mabey	"
Farnham	James Gallagher	Sixth Ward.
Robinson	John L. Raeder	Seventh Ward.
Harding	Peter Schappert	"
E. A. L	Edward Harley	"
J. T. L	P. Kleeman & Bro	"
Burke	A. Lindacher	"
Raeder	John Raeder	"
Farnham	George Dearie	"

Darlings	Hugh J. Dennin	Seventh Ward.
Hahn	George B. Hess	"
Osborne	Jacob Becker	Eighth Ward.
O. & Jones	Ivor Davis	"
Jones	William Evans	"
Robinson	Andrew Ebert	"
"	Philip Furstenfeld	"
"	Baltzer Helfrick	"
"	George A. Lohman	"
"	E. C. Wasser	"
"	Herman Zeterburg	"
"	C. S. Fowler	"
"	Casper Maier	"
"	Henry Scheidel	"
"	Adolph Gotthold	"
Martin	Charles Gable	"
"	G. W. Leas	"
Landmesser	Charles Saeger	"
Hahn	Peter Warker	"
"	P. Weiss	"
J. T. L	John Alles	"
"	Henry E. Lewis	"
"	William Phillips	"
Burke	Nathan Krause	"
Gates	Adam Turkes, jun	"
H. & McG	Marg't Ann Hummell	"
Hakes	John T. Thomas	"
H. & McG	F. C. Bressler	Ninth Ward.
Cannon	Daniel Shovlin	"
Raeder	B. H. Brodhun	Tenth Ward.
E. A. L	A. Kline	"
Rhone	Lewis Greismer	Eleventh Ward.
Bennett	Nicholas Miller	"
"	Valentine Schuler	"
Hahn	Leopold Storz	"
"	Peter Stump	"
Phoenix	Conrad Jacobs	"
Hines	William B. Francis	"
Martin	Louis Creter	Twelfth Ward.
"	Rosina Goekel	"
"	H. W. Connor	Thirteenth Wd.
Hahn	John Hochreiter	"
Mahon	Jacob Guttendorf	"
J. T. L	T. J. Gallagher	"
J. L	Patrick Corrigan	"
J. L. L	Thomas Devaney	Fourteenth Wd.
H. & McG	Jacob Schwab	"
J. T. L	Joseph Whalen	"
Hahn	Andreas Hahn	"
Coons	A. F. Farr	Fifteenth Ward.
McLean	Jacob Kocher	"
Strauss	M. Rottman	"
Hakes	John C. White	"
Brundage	Mrs. Ann Foley	"
Hahn	Thomas D. Thomas	"

RESTAURANTS.

Hines	E. Doney	Ashley.
"	William F. Imlay	"
"	Mrs. Anna McTigue	"
"	Philip Conrad	"
Campbell	Peter Murphy	"
Plumb	C. B. Stivers	"
Hahn	George Koons	"
Hayes	George Hess	Butler Tp.
J. T. L	Jos. Neely	Dallas Tp.
Halsey	John O'Dea	Denison Tp.
Martin	Mary Hoch	Dorrance Tp.
J. T. L	John Toohey	Exeter Tp.
"	John Melville	"
Shortz	Charles Lilly	Foster Tp.
McManus	Nancy Branigan	"
Gorman	Ann Boyle	Freeland.
"	James Givens	"
McManus	John Brislin	"
"	Manus Brennan	"
"	Manus Conaghan	"
Hayes	John M. Powell	"
"	Patrick Quinn	"
"	John Rugens	"
"	John Shiko	"
"	Rudolph Ludwig	"
"	John Oudeck	"
"	Charles Duseck	"

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Hayes	Catharine Wassuer	Freeland.
"	Charles Vandoski	"
"	Patrick Couningham	"
"	Adam Sachs	"
Kline	Milton Zeisloft	"
H. & McG.	D. Higgins	Hanover Tp.
"	John J. Meehan	"
E. A. L	Henry Watkins	"
Magee	A. F. Butzbach	"
Hines	John McCarty	"
Koon	John Bechtold	Hughestown.
"	Fred W. Schmalz	"
Mosier	John Gillespie	"
Kline	Christian Schaar	Hazle Tp.
"	Charles Altmiller	Hazleton.
"	William Rheinhart	"
"	Fred Berger	"
"	J. F. Fisher	"
"	Elizabeth Keunhold	"
"	Frank McGinty	"
"	Bernard Paul	"
"	Fred Schaar	"
"	Christian Schneider	"
"	Adam Smauch	"
"	Mrs. W. J. Williams	"
"	John Wolfram	"
"	John Kohlhaas	"
"	Catharine M. Hebel	"
"	Henry Knoth	"
"	Jacob Drumtra	"
"	Henry Geby	"
"	John Boyle	"
"	Conrad Schuggart	"
"	John Hausman	"
"	C. L. Klein	"
"	Luke Kregia	"
"	Benedick Spaid	"
"	Charles Widenbach	"
McManus	R. Crammer	"
"	C. Lahn	"
"	James McFarland	"
"	John F Meikrantz	"
"	Elizabeth Glauceous	"
Gorman	Bernard McGuire	"
"	D. C. Boyle	"
"	Neal McGinty	"
"	John O'Donnell	"
"	John McGinty	"
"	Peter Kennedy	"
"	John B. Cannon	"
"	Mrs. Ann McCaffrey	"
Brundage	Martin Specht	"
Halsey	John Richards	"
Martin	Owen Holland	Jenkins Tp.
J. T. L	Michael Nolan	"
Bohan	W. A. Lougheny	"
Hahn	Barbara Keller	Kingston Tp.
"	John Palmer	"
O'Neill	David Culver	"
J. L	Dora Sherry	"
H. & McG	Charles G. Banta	"
"	George Yates	"
Jones	David Thomas	"
Campbell	Patrick Ratchford	"
Reynolds	Michael Snee	"
"	William Phillips	"
Farnham	William Wellington	"
"	William B. Evans	"
Dickson	Anthony Callahan	"
J. S. H	Thomas Keating	"
J. T. L	S. A. Lake	"
Dickson	Robert Clayton	Luzerne.
"	Edward T. Jones	"
Hahn	James E. Williams	"
Koon	Michael Delaney	Marcy Tp.
O'Neill	Thomas F Kelley	"
Harding	Alexander Angus	"
J. L. L	John Nealis	"
Bulkeley	Win. Tasker	Miners Mills.
Campbell	Timothy Allen	"
J. T. L	Michael Ruddy	"
"	Michael McAndrew	"
Hines	John Corcoran	Nanticoke.
"	Frank Dagnan	"

Hines	James McGuire	Nanticoke.
"	John Reagan	"
Chapin	W. Heiduckiewiecz	"
"	Joseph Hughes	"
"	George Meginniss	"
"	Bridget O'Brien	"
Farnham	A. Dropiewskie	"
Plumb	Alfred Evans	"
Magee	George Williams	"
Martin	Henry Harvey	"
Jones	Jane James	"
"	Thomas Llewellyn	"
"	Margaret Thomas	"
J. T. L	Frank Stadt	"
Strauss	Frank Bogden	"
J. Lynch	Henry Beddoe	"
"	William H. James	"
"	David W. Thomas	"
"	Isaac L. Edwards	"
B. & N	William B. Matthews.	"
Hahn	Ant'ny Keveatkoersk.	"
"	Simon Klidizio	"
"	Louis C. Gabriel	"
"	Piotr Sztukowski	"
E. A. Lynch	James Vivian	"
Osborne	George P. Miller	Nescopeck Tp.
H. & McG	George Segar	Newport Tp.
E. A. Lynch	Joseph Underwood	"
Jones	Thomas J. Evans	Parsons.
Mahon	Patrick Golden	"
O'Neill	James Kenny	"
"	Patrick Lawlor	"
Koon	Anthony Boos	Pittston.
"	John Hauser	"
"	Jacob Pfingsten	"
"	Vincent Blazys	"
"	Albert Sutter	"
"	Xavier Arnold	"
Harding	John Fagan	"
"	Patrick Gibbons	"
J. T. L	Charles Reilly	"
"	James Jordan	"
"	Thomas Tigue	"
"	James Gibbons	"
"	Thomas Lyons	"
"	Edward J. Burke	"
"	John J. Coggins	"
Hughes	John Llewellyn	"
"	Edward Bolin	"
"	James James	"
"	Leo Dorbath	"
"	William J. Jenkins	"
H. & McG	John Connell	"
"	Patrick Connell	"
"	P. J. Duffy	"
"	J. J. Pursell	"
Brundage	P. J. Daley	"
Bauman	S. Sturmer	"
Mahon	Patrick Sheridan	"
Bohan	Joseph Tepluszewich	"
Koon	Michael Brown	Pittston Tp.
"	Charles A. Zeigler	"
Mahon	James Keating	"
"	George Judge	"
O'Neill	Arthur Davidson	Pleasant Valley.
"	Michael Dempsey	"
"	P. B. Brehony	"
"	Michael Whalen	"
Koon	Michael Reap	"
"	William Keating	"
J. T. L	John Walsh	"
"	Frank Heston	"
"	Michael Dougher	"
Mahon & H	Michael Lawler	"
J. L. L	P. H. Flagherty	"
Farnham	David Aston	Plains Tp.
J. T. L	Michael Coffield	"
"	Riley & Ruddy	"
Plumb	Peter Hines	"
"	Thomas W. Lewis	"
"	Thomas Morpeth	"
Jones	Moses Griffiths	"
Phoenix	Thomas Hines	"
Mahon	James Lawler	"

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Shonk	George Blakey	Plymouth.
"	Florence Shewan	"
"	Henry Surman	"
"	William Jeffries	"
"	Edward C. Brennan	"
"	Martin Wilkes	"
Magee	John Bryson	"
"	A. F. Butzbach	"
"	B. J. Gallagher	"
"	Samuel Haycock	"
"	Mira Johns	"
"	M. J. Reddington	"
"	John M. Thomas	"
"	David T. Williams	"
"	John May	"
"	F. C. Gates	"
"	Richard Martin	"
"	Edward Collett	"
"	William Simpson	"
"	Thomas Booth	"
"	James Connell	"
"	Leah Morgan	"
"	Benjamin Krothe	"
Harding	Edward Geaton	"
McManus	Anthony Bendrift	"
McAlarney	Joseph Harris	"
"	John J. Thomas	"
"	Owen N. Jones	"
Farnham	Mrs. John O. Jones	"
Robinson	J. H. Monk	"
Cannon	John Thomas	"
Magee	J. Brennan	Plymouth Tp.
"	Michael Morrisey	"
"	William Gillespie	"
"	James Gay	"
Coon	James Curry	"
J. L.	M. C. Russell	"
"	Owen Doyle	"
Jones	William Hatchwell	"
Ryman	J. H. Hildreth	"
Shonk	James Reese	"
"	John Brennen	"
"	William McCarty	"
"	John Heffron	"
E. A. L.	H. McGroarty	"
Farnham	Thomas Walsh	"
McAlarney	William Dailey	"
"	Thomas Brenan	"
"	Mark Saunders	"
Reynolds	Jacob Nafus	"
Brundage	Aug. Rusemweaver	Sugarloaf Tp.
Weaver	Henry Heller	"
Plumb	Michael Farrell	Sugar Notch.
Martin	James O'Brien	"
Hines	Thomas Roach	"
E. A. L.	Rose Sheridan	"
Halsey	Dennis Dinan	White Haven,
"	Otto Feist	"
"	Henry Kaiser	"
"	John Kern	"
"	Martin Lavelle	"
"	Philip Stempel	"
"	John Reddington	"
"	Edward Thayne	"
Hines	John Trimble	Wright Tp.
Halsey	John Lavelle	"
E. A. Lynch	Patrick Kelley	Wilkes-Barre Tp
W. S. McLean	Edward E. Leslie	"

WILKES-BARRE.

O'Neill	August Unger	First Ward.
Strauss	William Ruhs	"
H. & McG.	Francis Mulligan	"
"	Peter Gallagher	"
J. L. L.	August Huer	"
McLean	Frank Albert	Second Ward.
Brundage	Anna Fluegle	"
J. T. L.	C. A. Gaughan	"
Hahn	William Blase	Fourth Ward.
F. & B.	John Schmidt	"
J. T. L.	Jacob Rueffer	"
O'Neill	John J. Edwards	Fifth Ward.
Bulkeley	Kate Swartman	"
Robinson	Leo Geissler	"
"	H. Newcomb	"
Robinson	Leon Buchli	Fifth Ward.
Mahon	Robert Krieg	"
Strauss	Joseph Kern	Sixth Ward.
J. T. L.	Jonah Davis	"
"	Wendel Gransan	"
Bulkeley	M. J. Kingsley	Seventh Ward.
Robinson	George Schaller	"
Farnham	George Dearie	"
Hahn	Frank Koons	"
J. T. L.	John Welsh	"
Robinson	T. J. Flanigan	Eighth Ward.
"	Adam Mueller	"
"	Adam Turkes, jun	"
"	J. W. Maiser	"
"	Ed. Gunster	"
Farnham	John Davis	"
Landmesser	Michael Klein	"
McManus	Peter McManus	"
Hahn	John Becker	"
C. & S.	Thomas McKenna	Ninth Ward.
McL. & G.	Thomas Hamilton	"
H. & McG.	Anna Weiss	"
Hahn	Peter Stump	Eleventh Ward.
McL. & G.	Fred Ittig	"
Strauss	John Rottman	"
Cannon	George Schrauk	"
McLean	Nicholas Conrad	Thirteenth Wd.
Martin	William Philips	Fourteenth Wd.
Hines	William Lloyd	"

BY THE QUART.

J. L. L.	John Durkin	Bear Creek Tp.
Halsey	William Surtees	Exeter Tp.
J. T. L.	Matthew Dougher	"
Hayes	Hugh McMenamin	Foster Tp.
"	John McGinley	"
"	Anthony Gallagher	"
"	Dominick Winslow	"
Brundage	Joseph Rudewick	"
Halsey	Kellian Miller	"
"	Evan Moser	"
Weaver	James Maloy	"
Gorman	Patrick Burke	Freeland.
"	Hugh Gallagher	"
Hayes	T. Campbell	"
Harding	Anthony Mekelone	"
Hines	Oliver Plunkett	Hanover Tp.
Gorman	John W. Boyle	Hazleton.
"	D. J. McElleny	"
"	James O'Donnell	"
"	William J. Widzbor	"
"	Patrick Burke	"
"	Neal McGeeghan	"
"	Patrick McHugh	"
Kisner	Peter Dershuck	"
Kline	Jacob Fechter	"
"	Patrick Dougherty	"
"	Charles F. Held	"
"	Morris Ferry	"
"	George Zierdt	"
"	Thomas Campbell	"
"	Charles McCarren	"
"	Anna Heron	"
McManus	Frank Barnhill	"
"	Condy Byrne	"
"	Patrick McCarron	"
"	Patrick McCoy	"
Kline	Patrick Gallagher	Hazle Tp.
H. & McG.	Thomas O'Malley	Kingston Tp.
Mahon	John F. Hogan	"
Osborne	James McQuade	"
J. L. L.	Martin Moran	"
J. T. L.	James Kennedy	Marcy Tp.
Moore	James McGuire	Miners Mills.
"	Thomas McDonald	"
O'Neill	John Mayock	"
"	Michael Mayock	"
Mahon	John O'Connor	"
Chapin	Robert Schwartz	Nanticoke.
Jones	G. R. Snyder	"
Shonk	Jacob E. Learch	"
"	A. P. Recker	"
Cannon	John G. Jones	Newport.
Mahon	Golden & Walsh	Parsons.

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Mahon	Kelley & Ward	Parsons.
J. L. L	John Carey	"
Burke	Oliver Burke	Pittston.
Mosier	Thomas Granahan	"
Farnham	John J. Roberts	"
Hand	Bevan & St. John	"
O'Neill	Brady & McCormick	Plains Tp.
J. T. L	William T. Merrick	"
Harding	John Maughan	"
Cannon	James Flynn	"
	John Reap	Pleasant Valley.
Magee.	Pattrick A. Beatty	Plymouth.
"	Freeman & Steindler	"
"	Emma Edwards	"
"	D. F. Davenport	"
Reynolds	Ira Davenport	"
Shonk	John R. Lynch	"
"	Fred Schwartz & Bro.	"
McAlarney	John L. Barnes	"
J. T. L	Patrick Moran	Plymouth Tp.
O'Neill	Michael McGough	"
"	John McAnany	"
McLean	John Sweeny	"
Harding	Edward McGinnes	"
Shortz	John R. Edwards	"
J. L. L	P. J. Riley	Sugar Notch.
Halsey	William Comber	White Haven.

WILKES-BARRE.

Campbell	T. F. Sheridan	First Ward.
O'Neill	C. Burke	"
"	James Markey	"
"	Francis Ramsay	Second Ward.
J. L. L	John Cullen	"
"	Sarah Meehan	Third Ward.
J. T. L	Bernard C. Williamson	"
"	John Jennings	"
Hahn	Anna Baldes	Fifth Ward.
Coons	C. Rosenbluth	"
Shortz	John D. Birmingham	"
Butler	T. S. & W. S. Hillard	"
O'Neill	O'Boyle & McGreevy	"
Robinson	Owen O'Neill	"
J. T. L	John A. Merrick	Sixth Ward.
McManus	Tim McManus	"
Hahn	Ig. Freeman	"
Campbell	Peter McGourty	Seventh Ward.
Harding	Edward Conway	"
O'Neill	John Mahoney	Eighth Ward.
Osborne	L. J. Fogel & Co	"
McLean	James McCalloch	"
H. & McG.	John M. Caffrey	"
J. T. L	B. Breakstone	"
Hahn	Henry Luft	Tenth Ward.
E. A. L	Patrick McGrath	Eleventh Ward.
Campbell	Michael Reading	"
J. L. L	John Kearney	Thirteenth Wd.
McLean	Patrick McCaffrey	Fourteenth Wd.
O'Neill	Daniel McDade	"
Taylor	Daniel O'Donnell	"
J. T. L	Michael Monaghan	"

BOTTLERS.

Halsey	Patrick Sweeney	Foster Tp.
Hayes	James Sharpes	Freeland.
"	Anton Padulla	"
Kline	George Weimer	Hazleton.
"	Thomas Dolan	"
"	Fred Schaar	"
"	Jacob Spaid	"
Hahn	Martin Keller	Kingston Tp.
J. T. L	Thomas Burns	"
Hines	Wash L. Noble	Newport Tp.
H. & McG.	John O'Brien	Pittston.
Jones	J. W. Davies	"
Shonk	Fred Schwartz & Bro.	Plymouth.
"	John R. Lynch	"
J. L. L	John McGowan	Plymouth Tp.
J. Lynch	J. F. & E. Dietrick	Shickshinny.

WILKES-BARRE.

O'Neill	Frederique Thorn	Second Ward.
Hines	Arthur Featherstone	Sixth Ward.

L. K. STRENG,
14-16 Clerk Q. S.

ALSO, the following applications on Monday, May 5th, 1884:

RESTAURANTS.

Reynolds	Michael Mulligan	Kingston Tp.
J. T. L	Hugh Boyle	Luzerne.
Taylor	Thomas F. Currie	Pleasant Valley.
Magee.	David W. Richards	Plymouth.

WILKES-BARRE.

J. T. L	James Scanlon	Third Ward.
"	Fred. Schmiedt	Fifteenth Ward.

L. K. STRENG,
15-17 Clerk Q. S.

ESTATE OF DAVID N. JONES, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WILLIAM JONES,
11-16 Wilkes-Barre, Pa.

ESTATE OF BALTHAZAR LUCHSINGER, late of Pittston, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ANNA BURSCHEL,
Dunmore, Lack. Co., Pa.
SEBELLA ELTERICH,
ANTH. BAUMAN, Pittston, Luz. Co., Pa.
Attorney. 15-20

ESTATE OF ELIZABETH GILCHRIST, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

AGNES GILCHRIST,
ANNA C. GILCHRIST,
ISABELLA M. GILCHRIST,
GEO. H. FISHER, Wilkes-Barre, Pa.
Attorney. 15-20

ESTATE OF PETER SCANLAN, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

PATRICK McGROARTY,
15-20 Wilkes-Barre, Pa.

ESTATE OF ELIAS HOYT, LATE OF KINGston township, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ABRAM NESBIT,
H. B. PAYNE, Kingston, Pa.
Attorney. 15-20

AUDITOR'S NOTICE.

The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county, to report distribution of the fund raised at the suit of A. Whitaker, Trustee, v. J. W. Peck, and now in the hands of said A. Whitaker, Trustee, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, in the city of Wilkes-Barre, on Friday, May 9, 1884, at 10 o'clock A. M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

EDWIN SHORTZ,
11-18 Auditor.

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ORPHANS' COURT OF LUZERNE COUNTY. In re partition of the estate of Nathan Kocher, late of Lake township, in said county, deceased. Now, 15th March, 1884, court award inquest as prayed for, and direct notice to be given to the resident parties interested within the county according to law, and to interested parties not residing within the county of Luzerne, by advertisement, in one weekly newspaper and the *Luzerne Legal Register*, both published in said county, for three successive weeks prior to the day of holding the inquest, and by mailing a copy of each to the last known place of residence of such non-residents. Returnable Monday, May 12, 1884, at 10 o'clock A. M.

BY THE COURT.

In pursuance of the above order of court, notice is hereby given to George Kocher, Exeter, Wyoming county, Pa.; Silas B. Griffiths and Ann B. Griffiths; Stella, Richardson county, Nebraska; Frank Hines and Sarah Hines, Thompson Centre, Susquehanna county, Pa., and all others interested, that an inquest in partition will be held upon the lands described in said writ, situated in Lake and Fairmount townships, Luzerne county, on Tuesday, the 27th May, 1884, at 2 o'clock P. M., at which time and place you can attend if you desire.

J. S. OBERRENDER, Sheriff.
EDWARD A. LYNCH, Attorney.
14-16

NOTICE.

To Mary H. Trine (formerly Mary Lyon), John S. Lyon, Frankie Reese (formerly Frankie Lyon), Jemmie Etta Thomas (formerly Jemmie Etta Lyon), and B. F. Reese, Guardian: Please take notice, that the Orphans' Court of Luzerne county have granted the following rule and revival thereof in the estate of Mary Stevens, late of Blakely, county of Lackawanna, and state of Pennsylvania, deceased, of which estate you are the devisees; said rule having been granted to show cause why the executors of this estate shall not be discharged on petition by the executors, presented and filed, setting forth that the affairs of the estate have been fully settled, and their duties have been legally and faithfully discharged.

COPY OF RULE AND REVIVAL OF THE SAME.

Estate of Mary Stevens, deceased. In the Orphans' Court of Luzerne county. In re petition for discharge of executors.

Now, 16th February, 1884, rule is granted to show cause why executors shall not be discharged as prayed for. Notice to be given by advertisement in one weekly newspaper published in the city of Scranton for three weeks. Returnable last day of next term, at 10 A. M.

BY THE COURT.

Now, 11th March, 1884, rule revived and made returnable first day of next term, at 10 A. M.

BY THE COURT.

Certified from the records this 11th day of March, A. D. 1884.

[SEAL] JOSEPH HENDLER, Clerk O. C.
Per B. M. MCCRARY, Assistant.

The first day of the next term of the said Orphans' Court, or when said rule is returnable, is on Monday, the 12th day of May, 1884. And if cause be not shown upon that day, at 10 o'clock A. M., why the executors shall not be discharged, the court will be asked to make a decree discharging them.

EDWARD JONES,
JOSIAH H. TRINE, Executors.
JOHN R. JONES, Attorney.
14-16

PUBLIC NOTICE IS HEREBY GIVEN, THAT an application will be made to the Court of Quarter Sessions for Luzerne county, on the 21st day of April, A. D. 1884, at 10 o'clock A. M., for an extension and admission to the limits of the borough of Pittston, in the county of Luzerne, of an adjacent section of land known as Scotch Hill, and that a plan or plot of such extension has been filed in the office of the Court of Quarter Sessions of said county.

GEO. S. FERRIS, Solicitor.
13-15

ESTATE OF CATHARINE BURKE, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

M. W. MORRIS, Pittston, Pa.
11-16

NOTICE IS HEREBY GIVEN, THAT, IN accordance with the resolution of the Board of Directors, there will be a meeting of the Stockholders of the Glen Summit Hotel and Land Company held at the office of the Lehigh Valley Coal Company, Wilkes-Barre, Pa., on Wednesday, 23d April, 1884, at 2 o'clock P. M., to consider the question of issuing bonds and mortgage upon the franchises and property of the company for the purpose of completing the hotel, furnishing the same, etc., and for such other business as may come before the meeting.

By order of the Board of Directors.

ANDREW H. MCCLINTOCK, Secretary.
7-16

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Samuel Rosenthal, and that said license will be asked for in the court aforesaid on Monday, April 21st, 1884, at 10 o'clock A. M.

J. D. HAYES, Solicitor.
14-15

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Isaac Gotlieb, and that said license will be asked for in the court aforesaid on Monday, April 21st, 1884, at 10 o'clock A. M.

D. L. O'NEILL, Solicitor.
14-15

IN THE COURT OF COMMON PLEAS FOR the County of Luzerne of May Term, 1884, No. . Notice is hereby given, that an application will be made to the said court, on Monday, April 21st, 1884, at 10 o'clock A. M., under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the incorporation and regulation of certain corporations," approved April 29th, 1874, and the supplements thereto, for the charter of an intended corporation, to be called "The Wilkes-Barre Board of Trade," the character and object whereof is the encouragement and protection of trade and commerce, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements.

E. P. & J. V. DARLING, Solicitors.
13-15

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 250, May term, 1883. Libel in divorce a vinculo matrimonii. Fannie M. Hudnut, by her next friend, &c., *v.* S. A. Hudnut. To S. A. Hudnut—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the subpoena having failed on account of your absence. Returnable on Monday, April 21, 1884, at 10 o'clock A. M.

G. R. BEDFORD, Solicitor.
15-16

AUDITOR'S NOTICE.

In Re Indebtedness of Plains township. The undersigned has been appointed an auditor to ascertain and marshal the indebtedness of the above township. All those who have claims or demands against the same are required to present them before me on Saturday, the 12th of April, 1884, at 10 o'clock A. M.

W. R. GIBBONS, Auditor.
12-15

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, APRIL 18, 1884. NO. 16.

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Court of Common Pleas of Luzerne County.

IN RE PETITION OF SCHOOL DIRECTORS OF WILKES-BARRE.

1. On an application by school directors for permission to borrow money, it is lawful for the court to appoint an examiner to take testimony as to the facts alleged in the petition and remonstrance, and upon his report being filed to direct the payment of a reasonable allowance for his services.

2. The school district may be directed to pay the allowance in the first instance, although the report of the examiner is favorable to the petition of the directors.

Rule to show cause why attachment should not issue against the school directors of said district.

The opinion of the court was delivered March 19, 1884, by

RICE, P. J.—We have no doubt of the power of the court to appoint an examiner to take testimony as to the facts alleged in the petition and remonstrance. Indeed, this is not questioned. The appointment was made with the full approbation of the counsel for both parties, and the appointee was named by them. Neither is any question raised as to the reasonableness of the fee which has been allowed him. Both parties state that no objection is made on that score. But if the court had power to make the appointment, it would seem to be clear that the court had power to make a reasonable allowance as compensation for his services, even though the statute is silent on the subject. Fitzsimmons' Appeal, 4 Barr, 248. See also Porter's Appeals, 6 C. 496. It must also necessarily be in the power of the court to direct who shall pay the sum thus allowed, and to enforce its order by appropriate process. In the case of an auditor, or a master, the party in whose favor the report is made may be directed to pay the allowance in the first instance. Appeal of St. Joseph's Orphan Asylum, 2 W. 535; Lowenstein *v.* Biernbaum,

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8 W. N. C. 301; Thompson's Appeal, 11 W. N. C. 416. This case seems to us to be analogous; and if this be so, there is no sufficient reason shown for disturbing the order heretofore made by Judge Woodward.

Now, March 19, 1884, the rule is made absolute, but attachment not to issue until further order.

Of the O'Neills, Irish writers speak as "the once proudest and most powerful of the ancient Irish kings." They were kings of Tyrone, now a county in the north of Ireland, in the province of Ulster, bordering on Lough Neagh, which separates it from Antrim and the counties of Armagh, Monaghan, Fermanagh, Donegal, and Londonderry. It has an area of 1260 square miles, and in 1871 had a population of 215,668. The population to-day is not greatly more or less than that figure. The chief towns are Strabane, Dungannon, and Omagh, the capital. The surface is greatly diversified, and has many fertile plains and valleys, watered by the Foyle and Blackwater and their tributaries. Tyrone is one of the counties of Ireland in which coal is found, which, in part, explains why so many of the name who have come to this country have established their new homes in this part of Pennsylvania. Tyrone was once a powerful province, the sway of whose rulers was complete within its limits, and both feared and respected beyond them. Shane's Castle, the home of the fiery chieftain, Shane O'Neill, is a comparatively modern building, on Lough Neagh, now in ruins, having been burned by an accidental fire in 1816. The present proprietor, one of the descendants, resides in a temporary dwelling formed of one of the former outbuildings of the castle. From the ruins which remain, it is evident that it was a fine and spacious building. Several turrets and towers are still standing, and a number of cannon are still mounted on the fort, which is boldly situated. The vaults are still entire, and extend to the very verge of the lake, and the gardens retain the beauty for which they have long been celebrated. The grounds are kept and cultivated with exceeding neatness and care. The trees are of magnificent growth, and the waters of the lake nearly enclose the demesne.

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For centuries, Shane's Castle has been the chosen realm of the banshee, "a female fancy" literally, and variously called "the angel of death or separation" and "the white lady of sorrow." The banshee sometimes appears as a young and beautiful woman arrayed in white, but more frequently as a frightful hag, and often as a mere voice from nothing. She is supposed to come always for the purpose of forewarning death, which she does by melancholy wailings. An ancient bard wrote:

"The banshee mournful wails;
In the midst of the silent, lonely night,
Plaintive she sings the song of death."

Even to this day, to hint a doubt of the banshee of the O'Neills would, in the estimation of some of the people still in Ireland, be tantamount to blasphemy. There are those still living who heard the warning voice when the last lord died, and a few years ago there were not a few who were certain they had given ear to the fateful warning which fortold the killing of the former peer during the rebellion of '98 in the street of his own town.

The ruins, partly because of this belief, and partly because they link a splendid past, by reason of their great state of preservation, more closely with the present, are a favorite resort for travelers, and not the least of the very interesting sights a town of Ireland affords.

The O'Neills were kings in Ireland antecedent to Christianity. Camden says they "tyrannized it in Ulster before the coming of St. Patricke." One of the most interesting passages in Irish history is the record of what is called the Tyr-oen or Tyrone rebellion of Hugh O'Neill in 1597, who is described as a man "active, affable, and apt to manage great affaires, and of a high dessembling, subtile, and profound wit, so as many deemed him born either for the good or ill of his country." For some time he was considered a faithful subject of the crown, but on the death of Tirlagh O'Neill, to whose daughter Hugh was married, and who, being old, had resigned the earldom some time before in Hugh's favor, he took the title of "The O'Neill," which was in itself treason in the eyes of the English. For five or six years, he labored incessantly, organizing and equipping an army. He trained his men ostensibly to employ them against the Queen's enemies. He got license to cover his house at Dungannon with

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lead, and then moulded the metal into bullets. During all this time, he was suspected of treasonable intent, but continued ever to visit Dublin, and, as definite suspicions arose, to allay them In 1597, the Queen's forces, in an attempt to relieve the fort of the Black water, were attacked by the Kernes of Tyrone and utterly routed, losing "thirteen valiant captains and one thousand five hundred common soldiers," Sir Henry Bagnall, "marshall of Ireland," being among the slain. Rebellion became rife, as a result of this, all over Ireland. Elizabeth's favorite, the Earl of Essex, was sent to quell Tyrone, but he was no match for the O'Neill, as his enemies in England well knew he would not be, else had they not consented to his going. Lord Mountjoy succeeded Essex. He pursued the rebels with fire and sword and pestilence and by 1601 had compelled all to sue for mercy save Tyrone himself, and in that year the latter was signally defeated in an attempt to relieve his Spanish allies who were "walled up" at Kinsale. The following year, he made complete submission to the Queen, and went in person to London to ask forgiveness of King James the First. His rank, power, and estates were in part restored to him, and he returned to Ireland, but being afterwards suspected of attempting a new rebellion, he fled into Spain, and his enormous property was seized and parcelled out among English subjects, from whence arose "the plantation of Ulster," afterwards sold to "the London companies," who still hold it in possession. The O'Neills were finally driven from Tyrone by Cromwell's conquest in 1649, and fled mostly to the mountain fastnesses of Wicklow and Connaught.

The history of the race or clan O'Neill is full of incidents of great interest, which cannot, of course, be detailed here. Its descendants, like those of the other great Irish families of the past, are everywhere through the world, many of them occupying posts of high distinction under their several present flags. A not unworthy scion of this once proud stock is Daniel Llyng O'Neill, who was born December 10, 1835, at Port Deposit, Cecil county, Maryland.

His father was Daniel O'Neill, a son of Philip and Honora Llyng O'Neill, of Kilpipe, county Wicklow, Ireland, and the family there are known as the O'Neills of the Waste. Daniel emigrated to this country in 1829, and for many years was

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contractor of some note on public works in Maryland and Pennsylvania. In 1842, he located at Overton, Bradford county, Pennsylvania, where he continued to reside up to his death, which occurred August 6, 1881. His mother was Bridget O'Neill, *nee* Hopkins. She was born in Ballymahan, county of Longford, Ireland, and was the daughter of Patrick Hopkins. Daniel Llyng O'Neill was educated at the public and in select schools, and studied law with the late Hon. Hendrick B. Wright. He was admitted to the bar of Luzerne county April 4, 1864. In 1866 he was chosen a school director, and served on the School Board of the borough, city, and township of Wilkes-Barre for eight successive years, devoting much time and energy to the performance of his duties, and being in the fore front of every movement looking to an increase of the efficiency of the schools. He was a member of the Pennsylvania Legislature in 1868, and therein applied himself assiduously to such matters as affected the interests of his constituents. Through his efforts, what was known as the "Potato law" was repealed. This was a statute which prohibited any person not a resident of Luzerne county from selling "any goods, wares, or merchandise, by wholesale or retail, within its limits," until they had paid a license fee for the privilege amounting to $300 per annum. Its operation had been clearly unjust, and its repeal brought Mr. O'Neill no little credit. He secured also the passage of an act providing for the indexing of the assignments of judgments, a measure which our lawyers and business men have found vastly useful in expediting searches of title, and contributing to their accuracy when made. He made an effort to secure to the city statutory authority to sell the old jail lot, but this was without avail. It was during the session of 1868 that the fifteenth amendment to the constitution of the United States received the sanction of the Pennsylvania Legislature. Mr. O'Neill made an eloquent speech in opposition to it, taking the ground that it was purely a partisan measure, that no good would be done to the country by so suddenly and largely adding to the number of its illiterate voters, and generally questioning its wisdom. The speech was carefully considered, and at the time attracted much attention.

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The following year he was re-nominated, but owing to complications which had not been foreseen, it proved a disastrous year for the democratic party of the county, and both he and his colleague on the democratic ticket, Mr. N. G. Westler, were defeated. In 1873, he was elected a member of the City Council of Wilkes-Barre, and served a term of two years in that body. He served also for four years as one of the directors of the poor for the Central Poor District of Luzerne county. In 1874, he was a candidate for the democratic nomination for additional law judge, and in the very heated controversy which followed showed himself possessed of much personal strength by securing sixty-eight votes in the convention. He has also been a notary public for some years.

Mr. O'Neill married May 16, 1864, Annie, daughter of Patrick McDonald, of Union township, in this county. The couple have eight children—six sons and two daughters—living, the oldest of whom, Anna C., is at this writing a young lady of seventeen, at present a pupil in the Mansfield Normal School.

As will abundantly appear from the foregoing outline record of his life, Mr. O'Neill has been a busy and useful man. He is a lawyer of excellent abilities, and gives faithful attention to his cases, whereby he has secured himself a practice which, while not overtaxing his energies, yields him and his family a comfortable sustenance, and is enabling him to make reasonable provision for old age. He is a man of correct habits and domestic tastes, albeit, genial in disposition, and in no wise inclined to seek a selfish privacy when there is rational enjoyment to be had with companions other than those of his own family. He is a regular attendant at St. Mary's Roman Catholic Church, and one of the most active of the parishioners in all matters affecting its care and growth. In politics, he has always been a Democrat of pronounced views, ever ready with voice or pen to aid in its councils. He has given much time in the various campaigns both to campaign work and to stump speaking, and in each capacity has worked zealously and to good purpose.

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Clarence Porter Kidder was born in Wilkes-Barre, Pa., May 10, 1839. He is a descendant of James Kidder, jun., a native of East Grinstead, county Sussex, England, who was born there in 1626. James Kidder's wife was Ann, daughter of Elder Francis Moore. Mr. Kidder emigrated to New England in 1649, and settled in Cambridge, Mass. He had a son, John, born in 1655, who had a son, Thomas, born October 30, 1690, who had a son, Aaron, born December 22, 1719, who had a son, Luther, born June 29, 1767, who had a son, Lyman Church Kidder, the father of the subject of our sketch, who was born in Woodstock, Vermont, in April, 1802, and emigrated to the valley of Wyoming with his father at an early day. The mother of Clarence Porter Kidder was Mary, daughter of Anderson Dana, jun., a son of Anderson Dana, a native of Ashford, Conn., and a lawyer of handsome attainments. Immediately on his removal to Wilkes-Barre, he took a decided lead in the establishment of free schools and a Gospel minister. Before the first stump cut on his plantation had begun to decay, his son, Daniel Dana, was placed at school at Lebanon, Conn., to prepare himself for a collegiate education at Yale. It is here worthy of remark that he was the first student sent from Wyoming to Yale college, since which time scores of her sons have been educated at that institution. Mr. Dana returned from the assembly at Hartford near the close of June, 1778, where, at that most trying period, the people had chosen him to represent them. The enemy having come, Mr. Dana mounted his horse and rode from town to town, arousing, cheering for the conflict. Though by law exempt from militia duty, he hastened to the field and fell. Mrs. Dana, with a thoughtfulness nowhere equalled, knowing that, as her husband was much engaged in public business, his papers must be valuable, gathered up all she deemed most important, took provisions, and with her widowed daughter, Mrs. Whiton, and the younger children, fled. Like hundreds of others, they sought their way to their former home in Connecticut, where, while Anderson, jun., was put out an apprentice, Daniel was sent to college, and the rest turned their hands to such labor as could best sustain them. The independent spirit exhibited, all unconquerable, is itself a beautiful illustration

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of the Yankee character. Anderson Dana returned to Wyoming and recovered the patrimonial estate. Daniel, as designed by his father, was educated at Yale college. He lived many years in the state of New York, was judge of the court, and held other official stations. Rev. Sylvester Dana, another son, imbued, like his martyred father, with a zeal for religion and love of learning, sold his patrimonial right, obtained a liberal education, and entered the Christian ministry. Eleazer, the youngest son, resided at Owego, New York, where he had an extensive legal practice, and accumulated a handsome independence.

The mother of Anderson Dana, jun., was Sarah, a daughter of Asa Stevens, a native of Canterbury, Conn. He removed to Wyoming in 1772, and lived a portion of his time at the mouth of Mill Creek. Mr. Stevens was a lieutenant in one of the companies that marched out from Forty Fort July 3, 1778, and was slain in the massacre that day. Thus it will be seen that both of the great grandfathers of the subject of our sketch were slain in the massacre of Wyoming. The wife of Asa Stevens was Sarah Adams, whom he married in Canterbury, October 1, 1761. She was born January 17, 1768. Mr. Stevens was a descendant of Colonel Thomas Stevens, of Devonshire, England, and subsequently of London, England. He was an armorer in Buttolph lane.

Cyprian Stevens, son of Colonel Thomas Stevens, was born in London, and emigrated to Lancaster, Mass., about 1660. He married, January 22, 1672, Mary, daughter of Major Simon Willard.

Simon Stevens was a son of Cyprian Stevens. He was married to Mary Wilder in 1701.

Jonathan Stevens was a son of Simon Stevens. He connected himself with the church at Lancaster, Mass., April 16, 1710.

Asa Stevens, the great grandfather of Mr. Kidder, was a son of Jonathan Stevens, who was born in Canterbury, Conn., in May, 1734.

Mr. Kidder was educated at Wyoming Seminary, Kingston, Pa.; Wesleyan University, Middletown, Conn.; and at Union College, Schenectady, N. Y., where he took a degree. In 1862 he served in Captain Stanley Woodward's Company H, Third Regiment of Pennsylvania Militia, during the Antietam campaign; and in 1863, in Captain Finch's Company K, Thirteenth

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Regiment, Pennsylvania Volunteer Militia, during the Gettysburg campaign. In the last named company, Mr. Finch became the captain after the regiment arrived at Harrisburg, upon the refusal of Mr. Ricketts, who had been elected captain, to be sworn into the service of the United States. In 1865 Mr. Kidder was elected one of the councilmen of the borough of Wilkes-Barre, and served in that position for six years. In 1871, when Wilkes-Barre was made a city, Mr. Kidder was again elected a councilman for three years. In 1879 he was nominated for register of wills by the republican party, but was defeated by Charles C. Plotz, his democratic opponent, by a majority of only two hundred and sixty-five votes, although the democratic candidate for governor had a majority of 1006. Mr. Kidder is prominent in the Grand Army of the Republic, and delivered the poems on Decoration Day in 1879 and 1881.

Hon. Luther Kidder, a brother of Lyman C. Kidder, the father of Clarence Porter Kidder, who was admitted to the bar of Luzerne county November 5, 1833, represented Luzerne county in the State Senate from 1841 to 1844. He was subsequently president judge of the judicial district composed of the counties of Carbon, Monroe, and Schuylkill. He was a son-in-law of the late Hon. David Scott, president judge of Luzerne county.

Mr. Kidder married, May 24, 1864, Louisa Amelia, daughter of Captain Calvin Parsons, of the borough of Parsons, Luzerne county, Pa. She is a descendant of Deacon Benjamin Parsons, a native of Sanford, Oxfordshire, England, where he was born March 17, 1627. He probably accompanied his father to New England about the year 1630. Deacon Parsons was among the first settlers of Springfield, Mass., and a prominent citizen, a gentleman of exemplary moral character, of great worth and respectability. He was a chief instrument in the formation of the church in Springfield, as appears from his correspondence with the Rev. Dr. Increase Mather. In the civil affairs of the town, no one held more responsible offices, or discharged them with greater fidelity. He died August 24, 1689. His brother, Joseph Parsons, was a principal founder of Northampton, Mass., extensively engaged in the fur trade, and acquired a large estate.

Benjamin Parsons, son of Deacon Benjamin Parsons, was born in Springfield, Mass., September 15, 1658. He married, January

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17, 1683, Sarah, daughter of John Keep, of Springfield. Her mother was Sarah, daughter of John Leonard, of Springfield. Her father was killed by the Indians, at Long Meadow, 1676, probably on the 26th March, as on that day six men were killed at Springfield, three of them near Pecowsick brook as they were passing from Long Meadow to the town with an escort under Captain Nixon. The circumstance was long perpetuated by the following distich:

> "Seven Indians, and one without a gun,
> Caused Captain Nixon and forty men to run."

Mr. Parsons died at Enfield, Conn., December 28, 1728.

Christopher Parsons, son of Benjamin Parsons, was born in Enfield, Hartford county, Conn., January 28, 1691, and died September 10, 1747.

John Parsons, son of Christopher Parsons, was born in Enfield December 27, 1716.

John Parsons, jun., son of John Parsons, was born in Enfield April 4, 1744.

Captain Hezekiah Parsons, son of John Parsons, jun., was born in Enfield, March 25, 1777. He emigrated to Wyoming in 1813, and located at Laurel Run, now borough of Parsons. He was a clothier by trade, and erected the first fulling mill or factory in Luzerne county. The factory ran from 1813 to 1852, when the machinery was sold to John P. Rice, of Truxville. The wife of Captain Parsons was Eunice, daughter of Stephen Whiton, a young schoolmaster from Ashford, Windham county, Conn., and who was killed on the day of the massacre, July 3, 1778. Mr. Whiton had but recently married the daughter of Anderson Dana, sen., and Mr. Whiton and Mr. Dana fell together in the battle and massacre. Mrs. Parsons was born September 25, 1778, nearly four months after the death of her father. She died in 1853. Mr. Parsons died April 12, 1847.

Captain Calvin Parsons (son of Captain Hezekiah Parsons), the father of Mrs. Kidder, who is still living, was born at his present residence in the borough of Parsons, then township of Wilkes-Barre, April 2, 1815. He was commissioned captain of the Wilkes-Barre and Pittston Blues by Governor Ritner in 1835, he being but twenty years of age at the time. The borough of Parsons was named after Captain Parsons. He is thoroughly

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well known throughout the valley, is prominent in temperance circles, and takes a deep interest in historical matters, being one of the most enthusiastic and hard working of the members of the Wyoming Historical and Geological Society. Mr. and Mrs. Kidder have a family of three children—Calvin Parsons Kidder, Mary Louise Kidder, and Clarence Lyman Kidder.

From the foregoing facts, it will be observed that Clarence Porter Kidder unites in his veins the blood of some of the sturdiest and best of the old New England stock, which has done so much to develop the natural riches of the Wyoming valley, and make its name and people honored throughout the country, and that of his children is further enriched by contributions from another line of distinguished ancestry. He is yet a young man, and his fine natural qualities and excellent education fit him for important achievements at the bar. For a number of years he was the senior member of the firm of Kidder & Nichols, which came to be well known and highly respected, but for some time past he has been practicing singly, being engaged frequently in cases of unusual consequence, and requiring a thorough knowledge of the law, and careful and ingenious application of its principles.

In politics, he is a Republican, and takes a deep interest in the welfare of his party, having frequently contributed to its campaigns by effective efforts from the stump. He is a pleasing speaker, though he aims rather at argument than oratory.

During his connection with the borough council, and afterwards with that of the city, he served on important committees, and took a decided stand for or against every proposition of importance that arose during his term affecting the interests and well-being of his constituents.

He is of stalwart build, and has a fine presence. He enjoys association with "good fellows," and his genial manners and lively conversation is enjoyed by them.

Edward Kendall Morse, only son of Aldson Morse, was born in Wilkes-Barre, Pa., March 16, 1843. He is a descendant of John Moss, one of that noble band who founded the colony of New Haven, Conn. Mr. Moss's foresight, courage and enter-

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prise in the work; his wisdom and prudence; his self-denial, firmness and perseverance in carrying it on, are well attested by records, when read in connection with the history of his times, and the privations and trials of his situation. Of the time and place of his birth, and the date of his arrival in New England, we have no certain information. If he had attained his majority when admitted a member of the General Court, 1639–40, he was born as early as 1619. He doubtless arrived at New Haven, 1638. The first record of him is dated February 18, 1639–40, when he signed a social compact as one of the proprietors and planters. He resided in New Haven thirty years, and was a prominent man there, frequently representing the people in the General Court. As early as 1667 we find him in what is now Wallingford, Conn., perambulating the county in that region for the purpose of settling a village there. In 1670 we find him exerting himself, before the General Court at Hartford, to procure an act of incorporation, changing the name of the village to that of Wallingford, which was carried into effect the 12th day of May, 1670. At this time he was a member of the General Court for New Haven. Afterwards he was frequently a member of said Court as a representative from Wallingford. He was a very active member of the company, and a leader among the settlers. His name was early placed on the committee for the distribution of the common lands, where it remained for a succession of years, and he was placed at the head of a committee to gather and organize a church. He died in 1707.

John Moss, Jr., son of John the emigrant, was born October 12, 1650; died March 31, 1717; married Martha Lathrop, and resided in New Haven and Wallingford.

Solomon Moss, son of John and Martha Moss, was born July 9, 1690; died October 10, 1752. He married for his first wife Ruth Peck, who died March 29, 1728, at Wallingford.

Solomon Moss, Jr., son of Solomon and Ruth Moss, was born October 31, 1719; died in 1755. He married Elizabeth Fenn, November 30, 1743. He was jailor at New Haven, and died suddenly at Nine Partners.

Moses Moss, son of Solomon and Elizabeth Moss, was born August 15, 1751, at Nine Partners; died May 7, 1847. He married Mary Dutton, November 20, 1775.

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Asahel Morse, son of Moses and Mary Moss, was born September 16, 1778, and died October 19, 1827. He married Rhoda Lewis, May 11, 1801. He resided at Litchfield, Conn.

Aldson Morse, son of Asahel Morse, was born at Litchfield, Conn., May 20, 1811. He removed to Wilkes-Barre in 1835, and until the time of his death, July 22, 1874, was a prominent citizen of Wilkes-Barre. He was actively connected with the First Presbyterian Church of this city. Mr. Morse was married twice. His first wife, who died childless, was Eliza Fairchild, of New Britain, Conn. He married for a second wife Marcia Kendall, daughter of Joshua Kendall, of Granby, Conn. She is the mother of the subject of our sketch. Mr. Morse's only other child is Jennie Fenn Dana, wife of George S. Dana, of Utica, N. Y.

Edward K. Morse was educated at Wyoming Seminary, Kingston, Pa.; studied law with Andrew T. McClintock, of this city, and was admitted to the bar of Luzerne county, May 2, 1864. During the late civil war he was a member of Captain Ricketts' Company I, Third Regiment Pennsylvania Volunteers. This was during the Sharpsburg campaign, in 1862. In 1863 he was a member of Captain Finch's Company K, Thirtieth Regiment Pennsylvania Volunteers. He filled the position of quartermaster's clerk. This was known as the Gettysburg campaign. He enlisted under Captain Ricketts, but as the latter refused to be sworn into the service of the United States, E. W. Finch, of this city, was elected to fill the vacancy.

Mr. Morse continued in the practice of his profession for about six years, devoting himself wholly to what is known as office practice. He had no inclination whatever for those forensic displays which serve most frequently to bring lawyers to the notice of the public. He possessed, however, an admirable conception of the branch of duties to which he applied himself, especially of conveyancing; wrote an excellent hand; and would probably have achieved both profit and distinction therein had he adhered to them; but other and more congenial fields of labor, at the period stated, lured him out of the practice of the profession entirely.

Mr. Morse is a Democrat in politics, and, while not given to active campaigning, any more than he was to activity in what might be called the field work of the law, he nevertheless always takes a deep, quiet interest in the affairs of his party.

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He is a gentleman of first rate general attainments; possesses, by inheritance, a moderate fortune; and is one of the to-be-envied few, who, by happy content with what they have, are protected against the multiplied, grievous vexations of constant strife for more.

Court of Common Pleas of Wyoming County.

STEPHENS *v.* HADSELL *et ux.*

1. Justices' record averring a claim for "family necessaries" is not sufficient to support a judgment against a married woman unless it also avers a contract made by her.
2. An appeal taken by a married woman, which was never filed, will not prevent her taking a *certiorari* to review the record and proceedings before the justice.

The opinion of the court was delivered April 14, 1884, by

INGHAM, P. J.—The law is well established, that, to support an action against a married woman for family necessaries, it must be averred in the declaration, as well as shown in the evidence, that the debt was contracted by herself or by her authority; and it is also well established that a judgment against a married woman before a justice of the peace, which does not affirmatively show her liability on a contract within the statute, is void. Of the many authorities on these points, we need only cite Cummings *et ux. v.* Miller, 3 Grant, 146, and Hecker *v.* Hoak, 7 Norris, 238. The record before us in this case does not show any averment that the contract for family necessaries was made by the married woman or by her authority, and the judgment is therefore invalid. An appeal was taken by the defendant, but it never became operative, and it could not infuse life into that which was void.

The judgment, so far as it is against Mrs. O. P. Hadsell, is set aside, but affirmed as against O. P. Hadsell.

Wm. M. Piatt & Sons, for *certiorari.*

W. E. & C. A. Little and S. L. Tiffany, *contra.*

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TREASURER'S SALE OF SEATED LANDS in Luzerne County. In pursuance of the several Acts of Assembly regulating the sale of seated lands returned to the Commissioners, I will expose to public sale, on the second Monday of June next (ninth day), at the Court House, in the city of Wilkes-Barre, the lots and tracts of seated lands described in the following list, unless the taxes are paid before that time.

BLACK CREEK TOWNSHIP.

Lot	Boyle, Philip	$	73
Lot	Distlehurst, France		26
Lot and house	Farmier, Henry		41
Lot	Farmier, Jacob		37
Lot	Gallagher, Manus		62
Lot	Lebo, George		73
Lot	Myers, W J.		11
Lot	McGee, Daniel		73
Lot	Smith, Aaron	1	39
Lot and house	Schwartz, Charles	1	95
Lot	Young, Joseph		81

CONYNGHAM TOWNSHIP.

House and lot	Deitrick, John	2	23
House and lot	Moyer, Lazarus	4	71
Lot	Morgan, Ebenezer	1	17
10 a. and 2 houses	Kepner, John G	2	06
55 acres	Stackhouse, John, Estate	5	74
100 acres	Stackhouse, Charles	4	80

DALLAS TOWNSHIP.

15 acres	Kern Mary	1	08

DENISON TOWNSHIP.

100 acres	Decker & Ayres	13	57
50 ac. and house	Burns, Frank	15	71
Lot and house	Clark, Daniel	2	30
100 a., ho. and ba.	Cannon & Sharp	21	97
Lot and house	Costello, John	1	12
406 acres	Custard, Solomon	31	36
1863 a. 3 ho. and ba	Goedecke, A. P.	145	89
15 acres	Kinsly, Jacob	1	46
Lot and house	Kane, Dominick	3	45
Lot and house	Kenney, William	3	33
100 acres	Hoodmaker, Mrs.	13	58
150 acres	Lally, Patrick	8	77
50 a., ho. and barn	Mulhern, Dominick	4	58
1180 acres	Palmer, C. S.	104	43
Lot and house	Rankin, Mrs. A		70
50 ac. and house	Seipler, Conrad	6	70
50 acres	Winterstine, Sophia	7	05

DORRANCE TOWNSHIP.

51 acres	Balliet, Milton C.	1	23
64 acres	Davis, John D		77
56 a. and 2 houses	Ellis, Owen, Estate	8	70
223 acres	Guldin, George W	8	26
51 acres	Stair, Morgan	1	17
15 ac. and house	Steele, John, Estate		61
100 acres	Woodring, William	1	20

EXETER TOWNSHIP.

Lot and house	Arnet, David	1	26
Lot	Coray, William H		60
Lot	Cohen & Jenkins		60
53 acres	Coray, George	16	15
Lot and house	Gray, E	2	54
Lot	Richards, P. K		60
Lot	Tiner, Rev. J		60

FOSTER TOWNSHIP.

Lot	Acker, Abraham	3	60
Lot	Buckley, Charles	1	00
54 acres	Gilmore, Henry	2	36
Lot	Kurtz, Godfrey	2	67
Lot and house	Belles, William	7	06
Lot and house	Krause, Jacob	15	97
House and lot	Kocher, Job	6	22
109 acres	Morrison, Sarah	16	99
165 acres	Morrison, Catharine	16	89
100 acres	Meyers, P. S.	6	05
Lot and house	Surtees, William	7	63

FAIRMOUNT TOWNSHIP.

200 acres	Devans, Benjamin	11	48
50 acres	Hilgert, John	4	05
50 acres	Koons, J. S	4	05
57 acres	Nevil, James	1	03
85 acres	Everett, George		75
50 acres	Fuller, J. M	$ 1	05
130 acres	Kleintob, William	6	24
56 ac. and house	Larrish, Hannah	1	67
2 ac. and house	Santee, E. M.		84

HUNTINGTON TOWNSHIP.

26 acres	Brandon, Fanny	7	70
38½ acres	Huffman, Elizabeth		65
61½ acres	Huffman, Warren	7	89
10 ac. and house	Souder, George, Estate	1	38
24 acres	Eveland, William G	3	34
1 acre	Norris, Sarah		13

HUGHESTOWN BOROUGH

Lot	Longstreet, Att'y	1	24

HUNLOCK TOWNSHIP.

45 acres	Ackley, Susan	9	53
47 acres	Higgens, John	9	94
100 acres	Koons, D. S	11	25

HOLLENBACK TOWNSHIP.

28 ac. and house	Nauss, Michael, Estate	1	98
Lot	Sanderling, W. P.	1	72

HANOVER TOWNSHIP.

Lot	Gough, John	1	86
Lot	Joslin, Sarah		60
Lot	Jones, John T		45
Lot	McGouldrick, James		45
Lot and house	Perkins, H. C	3	70
5 lots and 4 houses	Smith, Patrick	3	26

HAZLE TOWNSHIP.

2 lots	Hughes, William M. & B. E.	3	95
2½ lots	Seger, John G	2	60
2 lots	Smith, W. W	1	35

HAZLETON BOROUGH.

Lot	Boyle, Anthony	2	78
Lot	Bush, Simon	2	78
Lot	Doud, John	2	91
Lot	Horn, Henrietta	2	91
Lot	Jones, John	1	82
Lot	McGinty, Neal	6	55

JACKSON TOWNSHIP.

32 acres	Stuckey, James	2	80

JENKINS TOWNSHIP.

Lot and house	Manly, Michael	2	90

KINGSTON TOWNSHIP.

Lot	Bennett, William, Estate	1	22
Lot	Croghan, Mrs	1	47
127 acres	Coray, George	134	38
3 acres	Church, George H	2	73
House and lot	Green, David W	9	33

LEHMAN TOWNSHIP.

50 acres	Bishop, Palmer, Estate	5	41
75 acres	Cease, George	7	96
94 acres	Cease, George and Josiah	8	47
177 acres	Cease, Philip and Josiah	16	29
194 acres	Cease, George and Josiah	20	92
78 acres	Disque, Christopher	8	45
74 acres	Cease, George and Josiah	7	75
56 acres	Matthews, John	2	02
¼ acre	Wolf, Lorenzo	1	45

LAKE TOWNSHIP.

110 acres	Atherton, James P.	6	39
290 acres	Foss, Demming	1	75
18 acres	Garringer, C. F	1	86
26 acres	Kocker, I. D.	3	37
69 acres	Wagner, Edward	5	59

LAUREL RUN BOROUGH.

2 ac and house	Chase, E. H	2	76
101 acres	Dana, Metcalfand Henry, Est	11	63
221 acres	Metcalf, Rowland	25	43
3 ac. and house	Tamany, Moses C	11	50
36 acres	Winchester, Martha C	19	70

NESCOPECK TOWNSHIP.

32 acres	Stookey, James		75

NANTICOKE BOROUGH.

2 lots	Luke, M. L	27	62

PITTSTON TOWNSHIP.

Lot	Barber, S. G.	3	78
House and lot	Davis, J. W	2	49

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PITTSTON BOROUGH.

3 houses and 3 lots	Gethings, William	$138 95
½ acre	Keating, William	1 03
½ acre	McHugh, Frank	1 03
Lot and house	O'Donnell, James	2 63
9 acres	Crawford, L. W	60 03
Lot and house	Crawford, L. W	24 82
Lot and shop	Blackman, C. S	36 38
3 lots	Holland, Wm. or Morris M.W.	3 76
Lot	Collican, James	2 09
Lot	Daly, Peter	3 11
Lot	Sheridan, Dennis	3 71
Lot	Williamson, John	7 81
House and lot	Stout, Mrs. Hannah	6 01
House and 2 lots	Wear, James R., sen., or Wear, James R., jun.	65 50
House and 2 lots	Law & Campbell	230 17

PARSONS BOROUGH.

Lot	Williams, Essey	1 01
Lot	Jones, W. W	4 95

PLAINS TOWNSHIP.

16 acres	Stark, G. H	5 44

PLYMOUTH TOWNSHIP.

Lot and house	Albrighton, Jack	1 53
8 acres	Bailey, P. S	1 27
20 ac. and house	Beam, Charles	1 03
Lot and house	Barry, Charles	2 35
House and lot	Barry, Benjamin	5 78
House and lot	Barney, George W	2 04
40 acres	Burger, John	2 08
Lot and house	Connell, James	5 19
180 a., 2 ho. and ba.	Cease, Jacob, Estate	10 04
40 acres	Cease, Josiah	1 15
House and lot	Dodson, Lafayette, Estate	1 93
4 acres	Dodson, Thomas, Estate	91
House and lot	Delaney, William	1 20
House and lot	Dull, Henry	1 09
3 ac. and house	Egberton, J. S., Estate	2 69
Lot and house	Harvey Bros.	2 55
18 acres	Humphrey, John	1 10
29 a., ho. and barn	James, William	1 95
House and lot	Johnson, Henry	95
House and lot	Johnson, James	1 20
118 acres	Kaizer, Jesse	5 33
140 a. and 6 houses	Lance, William L	71 51
600 acres	Merriman, E. L., Estate	11 22
Lot and house	Morgan, Mrs. Martha	1 76
2 lots and 2 houses	Murphy, Martin	3 37
2 houses and lot	McKeel, Sammy	1 03
1 acre and house	Miller, George	1 08
Lot and house	Puterbaugh, George	2 37
Lot and house	Pennsylvania Canal Co.	2 37
Lot and house	Plotts, Christopher	1 53
5 acres and house	Vane, Charles	2 44
29 a., ho. and barn	Williams, James	3 41

PLYMOUTH BOROUGH.

Lot and house	Nesbitt, S. P.	10 05
Lot and 2 houses	Wamby, Job	10 05
Lot and house	Hatcher, Emanuel	3 00
Lot	Allen, Otis	1 67
Lot and house	Berry, Peter, Estate	8 04
House and lot	Murphy, James	3 35
Lot	Fahey, William	4 71
Lot	Watkins, Griffith	84
Lot and house	Ely, Jacob	5 02

ROSS TOWNSHIP.

¼ acre	Bowman, George	10
100 ac. and house	Fisk, S. H.	3 17
132 acres	Harvey, A. N	4 02
246 acres	Jamison, Alexander	9 62
50 ac. and house	Learned, Joseph H.	2 11
315 acres	Ruggles, Josiah	36 79
620 a. and 2 houses	Strickland, Thomas	51 66
30 acres	Totten, Joseph H	2 87
92 acres	Hazlehurst, George	1 84

SHICKSHINNY BOROUGH.

Lot and foundry	Beadle, Hartman and Masters	7 95

SUGAR NOTCH BOROUGH.

Lot	Riley, Joseph	1 21

SLOCUM TOWNSHIP.

50 a., house and lot	Fox, Jacob	3 75
88 8-9 acres	Vandermark, Daniel, Estate	12 48

SALEM TOWNSHIP.

130 acres	Stuart, Frank	$10

UNION TOWNSHIP.

16 acres	Labar, Mary	
52 acres	Marvin, John, Estate	21
10 ac. and house	Scott, John	1
200 acres	Walker & Blue	10
40 acres	Koons, B. D.	14

WEST PITTSTON BOROUGH.

Lot	Crawford, J. C.	3
Lot and house	Drum, Martin, Estate	2
Lot and house	Drum, Mrs. John	9
Lot	Lee, Frank J.	5
Lot	Longwell, William	6
2 lots	Searfoss, Bernard	7

WHITE HAVEN BOROUGH.

Lot and house	Gardner, Charles	6
Lot	Karlopp, Reinold	4
Lot and house	Mulvana, Maria	5

WRIGHT TOWNSHIP.

252 acres	Evans, Griffith	17
360 acres	Heckman, Adam	18
447 acres	Miffiin, Benjamiin	22
170 a. and 2 houses	Reese, A.	25
20 acres	Reese, A.	1
396 acres	Ripple & Lines	19
400 a. and 2 houses	Perry, Rollin	43
50 acres	Steadman, William	2
64 acres	Stivers, Thomas B	8
112 ac. and house	Vandermark, William, Est	14

WILKES-BARRE TOWNSHIP.

South District.

Lot and house	Batterton, John	
15 acres and lot	Brown, Joseph	13
110 acres	Dana, Metcalf and Henry, Est's	
Lot	Gallagher, Catharine	
Lot and house	McConologue, Mrs. Rose	1
4 acres	Winchester, S. S.	6

North District.

Lot and house	Gordon, John	
Lot	John, Thomas E.	4
Lot and house	Prosser, Elizabeth	
Lot and house	Shovlin, Daniel	
14 acres	Winchester, S. S.	19

WILKES-BARRE CITY.

First Ward.

Lot	Berryman, Frank, River st	7
Lot	Bank, Bernard, Maple st	8
House and lot	Harrison, Anthony, Main st.	7
Lot	Hawley, P., River st.	7
Lot	Klein, Adolph, River st.	5
Lot	Kildea, James, Walnut st.	4
Lot	Louder, B. F., Main st	9
Lot	Lenahan, Patrick, Main st	4
Lot	Meeter, Joseph, Kulp ave.	4
Lot	Meeker, William, Franklin st	4
House and lot	O'Malley, John, Est., Linden st.	4
House and lot	Redmond, Michael, Chestnut st.	4

Second Ward.

Lot	Castle, Mrs. Ellen, Scott st	5
House and lot	Clark, Peter, Kidder st.	6
Lot	Crawford, Ira M., Scott st.	5
Lot	Earlich, Jacob, Est., Scott st.	5
House and lot	Fletcher, Sibbella, Scott st.	7
Lot	Hennigan, P., Scott st	5
House and lot	Hilbert, George, Est., Scott st	7
Lot	Jennings, Peter, Kidder st	4
Lot	Kern, Philip, Kidder st.	4
House and lot	Landmesser, N. F., Scott st.	7
Lot	McGavin, John, Bowman st.	4
House and lot	McDonald, J. P., Bowman st.	5
Lot	Myers, Philip & Lindacher, Scott	5
Lot	Kennedy, Mrs. Owen, Scott st	21
3 acres	Patterson, Mrs. Louisa M., Scott st.	21
House and lot	Richards, Thos., cor. Kidder & Laurel	7
Lot	Reed, Patrick, Kidder st	4
Lot	Sherry, Owen, Kidder st	4
Lot	Tracy, James, Bowman st	4
Lot	Ward, John A., Scott st	5
3 acres	Wheeler, Mrs. Harold, Scott st.	21
Lot	Ziegler, George, Kidder st	2

Third Ward.

Lot	Empire B. & L. Ass'n, Grant st.	4

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House and lot Keegan, William, Est., Wells st. $ 7 48

Fourth Ward.

House and lot Hartsell, Mrs. Maria, River st . 7 52

Fifth Ward.

House and lot Kirkendall, Geo. W., Washington 31 09
House and lot Kirkendall, Geo. W., Washington 12 15
Lot . . . . . McGrath, Patrick, Market st . . 10 34

Sixth Ward.

Lot and house Brown, Henry, Northampton st. 10 95
Lot . . . . . Smith, James, Sherman st . . . 3 90
House and lot Tillman, Mrs. Ispiah, Northamton 7 76

Eighth Ward.

Lot and house Kirkendall, George W., Canal st. 23 50
Lot and 2 ho. Zeigler, Chas. A., Washington st. 33 76
House and lot Zeigler, Chas. A., Mar ‹ place 5 8‹

Ninth Ward.

Lot . . . . . Chapin, Mrs. Martha, Grant st . 3 95
House and lot Zimmerman, Joseph, Hancock st. 5 18

Tenth Ward.

House and lot Brown, Ann Eliza, Est., River st. 12 22
Lot . . . . . Davis, Mary Ann, Academy st . 15 28
Lot . . . . . Davis, Mary Ann, Academy st . 20 01
Lot . . . . . Davis, Mary Ann, Academy st . 13 78
5 acres . . . Davis, Mary Ann, Academy st . 5 88
Lot . . . . . Davis, John, Est., Academy st . 36 43
Lot and house Davis, John, Est., River st. . . 101 29
Lot . . . . . Wadhams, Calvin, H B. Payne, Assignee, West River st . . . 17 30

Eleventh Ward.

House and lot Davis, John, Main st. 31 02
House and lot Louder, John, Est., Ash st . . . 9 17
House and lot Louder, John, Est., Ash st . . . 6 27
Lot and 2 ho. Neiir, W. W., Mechanic's alley. 5 54
House and lot Ziegler, C. A., Main st 31 26
House and lot Ziegler, C. A., Hazle ave. . . . 6 37

Twelfth Ward.

Lot . . . . . Klennart, John, Careytown road 4 40

Thirteenth Ward.

Lot . . . . . Ellas, F. A., Douglass st 5 82
Lot . . . . . Kidder, C. P., Hazle ave. . . . 12 29
Lot . . . . . Kidder, C. P., Park ave 52 79
Lot . Kidder, C. P , Dana st. 45 23
Lot . . . . . Kidder, C. P., Henry st 7 56
Lot . . . . . Kidder, C. P., Moyallen st. . . 7 56
Lot . . . . . Kidder, C. P., Hancock st . . . 5 03
Lot . . . . . Kirkendall's half-interest in Kirkendall & Troxell, Hazle st . . 10 05
Lot and house " " Prospect st . 2 45
Lot . . . . . " " Prospect st . 1 53
House and lot " " Stanton st . 2 17
House and lot " " Stanton st . 3 13
House and lot " " Stanton st . 2 17
Lot . . . . . " " Stanton st . 1 51
House and lot " " Stanton st . 2 18
4½ acres . . " " 22 62
House and lot " " Stanton st . 2 27
House and lot Parks, Joseph, Lincoln st. . . . 5 77
Lot and 2 ho. Pennell, J. B , Dana st 11 16
Lot . . . . . Shovlin, Francis, Prospect st . . 3 02
Lot . . . . . Thomas, John P., Stanton st . . 2 25
House and lot Pennell, J. B., Railroad, bel. Farrow 4 26
15 acres . . . Dana, Andersen, Est., e. of Hanc'k 101 16

Fourteenth Ward.

House and lot Ayres, L. L., Main st 33 29
Lot . . . . . Anhiser, Miss Mary, Hazle st . 7 11
House and lot Caffrey James, township line . . 6 60
House and lot Cannon, John or Sarah, Hazle st 8 91
Ho and 2 lots Decker & Ayres, Blackman st . 9 21
Ho. and 3 lots Decker & Ayres, Blackman st . 19 53
House and lot Decker & Ayres, Hill st 4 02
Lot . . . . . Decker & Ayres, Jones st . . . 2 54
House and lot Decker & Ayres, Hill st 3 35
Lot . . . . . Decker & Ayres, Parrish st. . . 2 01
House and lot Decker & Ayres, McLean st . . 4 16
House and lot Decker & Ayres, Parrish st. . . 6 27
House and lot Davis, John A., Est., Hill st . . 4 99
House and lot Flynn, Patrick, Parrish st . . . 5 91
House and lot Flynn, Patrick, Hazle st 8 77
Lot . . . . . Flynn, Patrick, Murray st . . . 1 87
Lot . . . . . Gilligan, William, Blackman st . 3 79

Lot . . . . . Gilligan, John, Est., Gilligan's lane $8 85
House and lot Gilligan, John, Est., Hazle st. . 13 60
House and lot Harkness, T. C., Main st. . . . 8 91
5 acres . . . Harkness, T. C., Andover & Spring 20 10
House and lot Hammond, Thomas, Blackman st. 4 62
House and lot Hanlon, Frank, Est., High st. . 6 57
House and lot Harris, James B., Jones st . . . 3 75
Lot . . . . . Jones, Lydia, Hill st 3 35
House and lot Kinterman, Charles, Grove st. . 3 88
Lot . . . . . Louder, B. F., Blackman st. . . . 7 07
House and lot Laning, John & Ayres L. L., Brown 6 03
Lot . . . . . Marsden, Sam'l or W W., Blackman 9 38
Lot . . . . . Meighan, Frank, Spruce st . . . 5 03
House and lot McLaughlin, Wm., Est., Miller st 3 59
House and lot Rourke, Rossanna, Jones st . . 2 21
House and lot Rafter, Patrick, Est., Murray st 1 34
and ‹t ›rdevant & Goff, Blackman st. 4 09
Hous and ›' tair, Evan, Blackman st. . . . 3 76
House and oc Stair, Evan, Par.ish st 7 90
House and lot Ziegler, George, Est., Mill st . . 4 93
Lot . . . . . Stedman, E. H., McLean st . . 2 02

Fifteenth Ward.

Lot . . . . . Butler, E. G., Barney st 2 12
House and lot Decker and Ayres, Main st. . . 8 50
Lot . . . . . Gates, H. C , Hanover st. . . . 19 08
House and lot Hahn, Gustav, Main st. 16 45
Lot . . . . . Wilson, Thomas, Hanover st . . 6 72
House and lot Parks, Joseph, Church st. . . . 7 54

JOHN TURNBACH,
14-17 Treasurer.

TREASURER'S SALE OF UNSEATED LANDS in Luzerne County. Notice is hereby given, that, agreeably to the Acts of Assembly of the Commonwealth of Pennsylvania, directing the mode of selling seated and unseated lands for taxes, the following tracts and parts of tracts will be sold at public vendue, on the second Monday of June next (ninth day), at the Court House, in the city of Wilkes-Barre, for the arrearages of taxes due and costs accrued on each, respectively, unless the same be paid before the day of sale. Sale to commence at 10 o'clock A. M.

Acres.		
	BEAR CREEK TOWNSHIP.	
418 . .	Baird, Samuel	$40 54
359 . .	Dorrach, Agnes	33 98
359 . .	Dorrach, Thomas	33 97
440 . .	Dorrach, William	41 58
311 . .	McDowell, John	29 39
390 . .	Preston, William	28 73
439 . .	Price, Eli K	41 53
401 . .	Patterson, Robert	25 87
406 . .	Reece, Daniel	38 56
400 . .	Shephard, Joseph	37 80
401 . .	Thomas, John	25 88
178 . .	Twaddle, John	15 11
50 . .	Custer, Paul	1 37
350 . .	Custer, Samuel	9 48
	BLACK CREEK TOWNSHIP.	
321 . .	Dunlap, John	122 08
336 . .	Hammond, David	319 41
250 . .	Helm, Oliver	92 09
105 . .	Rope, Robert	39 93
355 . .	Rope, Simpson	128 79
266 . .	Stewart, William	101 16
110 . .	Stewart, William, jun	41 83
237 . .	Tittsworth, John	9 48
	BUCK TOWNSHIP.	
200 . .	McShane, Francis	19 20
200 . .	McShane, Ezekiel	19 20
	BUTLER TOWNSHIP.	
258 . .	Black, James	41 53
387 . .	Ewing, Jasper	24 48
180 . .	Gray, William	14 09
346 . .	Irwin, Robert	92 06
438 . .	Poultney, Benjamin	5 04
104 . .	Staffer, John	28 67
433 . .	Wilson, William	23 29
	DENISON TOWNSHIP.	
40 . .	Dyer, James	2 35
435 . .	Dorsey, John	25 66
435 . .	Fox, Samuel M	25 66
308 . .	Galbraith, Josiah	23 47

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Acres.		
297	Hamasel, Charles	$23 47
435	Wharton, Kearney	25 66
435	Wharton, Moore	25 66
400	Cottringer, Garrett	23 58
400	Cottringer, James	23 58
300	Miller, Charles	9 14
	DORRANCE TOWNSHIP.	
232	Catlin, Putman	23 75
422	Fuller, Stephen	39 66
133	Guier, John	12 52
90	Hawker, George	5 76
200	Steadman, William	18 80
389	Swain, John	36 58
250	Barge, Jacob	13 00
½ of	**EXETER TOWNSHIP.**	
310	Worthington, Eliphalet	25 12
	FAIRMOUNT TOWNSHIP.	
20	Arnaut, Thomas	2 07
132	Arnaut, Thomas	11 47
438	Blakely, John	41 58
30	Beach, Susannah	2 85
301	Cope, Thomas P	28 57
438	Conrad, Matthew	41 58
260	Delaney, Molly	22 49
45	Gilpin, Samuel	4 29
156	Kerr, Joseph	5 77
260	Kidd, Simon	24 70
326	Paschall, Joseph	30 93
244	Plunkett, William	22 71
150	Skyron, John	14 25
407	Sansom, William	38 66
112	Whitford, Jacob George	9 62
	FOSTER TOWNSHIP.	
300	Brown, John	38 16
196	Barton, Thomas	24 35
25	Carson, Andrew	3 95
400	Calhoun, George	437 50
200	Edmunds, Peter	11 05
318	Hunter, Alexander	102 95
150	Morgan, James	41 12
322	Smith, Uriah	91 15
400	Steadman, Elizabeth	224 60
300	Steadman, Rebecca	167 63
130	Scott, Abram	22 89
97	Schrader, Philip	12 43
400	Tims, John	50 98
421	Weiss, Francis	138 18
200	Barton, Thomas	63 88
39	Wright, Josiah	10 80
	HANOVER TOWNSHIP.	
25	Collins, Oristus	4 52
116	Lot No. 2, 3d Division	20 88
116	Lot No. 16, 3d Division	20 88
110	Lot No. 17, 3d Division	19 81
116	Lot No. 18, 3d Division	20 88
	HOLLENBACK TOWNSHIP.	
100	Brady, Jane	14 63
92	Irwin, Charles	10 06
177	Steadman, Margaret	30 05
270	Thompson, Joseph	45 70
	HAZLE TOWNSHIP.	
450	Anderson, Jacob	629 10
400	Allibone, Thomas	279 60
200	Brady, William P	279 60
300	Beatty, Joseph	209 70
140	Beck, Paul	97 86
140	Bunting, Philip S	97 86
316	Bowen, Mary	192 26
437	Boller, Frederick	305 18
429	Carnes, Robert	299 97
140	Clark, Josiah	97 86
354	Chapman, Joseph H	247 44
200	Clark, Robert	104 13
100	Clark, William	60 45
413	Dixon, John	577 35
400	Douglass, Andrew	279 60
400	Ely, John	279 60
439	Irwin, William	306 60
400	Jackson, Jeremiah	560 57
400	Jordan, John	279 60
221½	Kunkle, John	154 84

Acres.		
391	Kunkle, Mary	$238 65
407	Kunkle, Christian	249 90
417¼	Kunkle, John J	260 09
439	Lattimer, James	306 86
446	Milligan, William	623 50
400	Morgan, John	279 60
140	North, Caleb	97 86
400	Rope, Daniel	279 60
400	Rope, John	279 60
400	Rope, Levi	279 60
400	Rope, Simon	559 20
400	Rope, Solomon	279 60
440	Rope, Nicholas	307 56
394	Roan, Flavel	550 82
100	Steadman, Rebecca	122 33
150	Scott, Abram	101 07
353	Steadman, James	246 74
400	Sitgraves, John	487 40
400	Smith, James L	279 60
400	Sproat, John	279 60
140	Sproat, William	97 86
	HUNLOCK TOWNSHIP.	
100	Dean, John R	12 80
150	Hunter, Alexander	22 20
20	Hoyt, Charles A	2 94
80	Nesbitt, Abram	9 98
	JENKINS TOWNSHIP.	
149	Bedford, James S	59 74
30	Holden, Jacob	9 09
100	Lot No. 20, Certified Pittston	218 00
100	Lot No. 21, Certified Pittston	218 00
75	Lot No. 22, Certified Pittston	163 50
150	Lot No. 24, Certified Pittston	327 00
150	Lot No. 25, Certified Pittston	307 50
75	Lot No. 26, Certified Pittston	153 75
	LEHMAN TOWNSHIP.	
143	Lot No. 21, Certified Bedford	20 78
	LAKE TOWNSHIP.	
461	Bailey, Aaron	48 27
114	Carman, Michael	15 45
470	Chambers, H A	48 76
240	Chambers, H. A	41 80
406	Davis, Sarah	42 88
235	Davis, Joseph	24 69
108	Delaney, Margaret	13 04
252	Fell, Jesse	28 32
214	Hollenback, G. M	38 52
300	Hine, C. W	31 51
150	Hollenback, G. M	27 23
179	Hermans, Simon	32 47
19	Hollenback, G. M	4 56
432	McKloskey, David	51 52
232	Pierson, Samuel	27 77
197	Withey, James	35 64
14	Delaney, Thomas	34
	NEWPORT TOWNSHIP.	
55	Lot No. 4, 3d Division	7 83
100	Lot No. 41, 2d Division	129 00
10	Of Lots Nos. 52 and 53, 3d Division	12 90
138	Of Lots Nos. 31, 33 and 35, 2d Division	89 00
	PITTSTON TOWNSHIP.	
275	Butler, Jonathan	86 90
220	Parker, William	6 27
86	National Anthracite Coal Company	203 82
27	Thomas, Jesse, part of Lot No. 65	85 32
5	Of Lot No. 46, Certified Pittston	13 10
60	Lot No. 47, Certified Pittston	119 70
	PLAINS TOWNSHIP.	
10	Downing, Daniel	24 88
134	Lot No. 11, Certified Pittston	168 76
31	Lot No. 12, Certified Pittston	49 06
152	Of Lots Nos. 1, 2, 3 & 4, Certified Pittston	127 80
	PLYMOUTH TOWNSHIP.	
215	Bradley, Phineas	19 18
800	Sunbury, Manor	72 28
6	Chambers, H. A	36
100	Wright, Harrison	5 78
	ROSS TOWNSHIP.	
408	Blakely, John	48 95
230	Bowman, Thaddeus	18 73

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Acres.		
450	Bump, Jesse	$56 23
100	Bump, Joshua	12 50
497	Bump, Levi	60 98
410	Bump, Thomas	51 04
262	Custard, Mary	32 75
141	Delaney, Molly	17 62
400	Delaney, Nancy	49 98
316	Kidd, Aaron	39 47
142	Kidd, John	17 78
400	Kidd, Peter	49 98
211	Kidd, Simon	28 70
216	McLaughlin, Alexander	28 11
225	McLaughlin, Hugh	27 22
377	Meylert, Michael	47 13
447	Patterson, Alexander	54 31
260	Reese, James	32 49
266	Sansom, Joseph	32 86
321	Sansom, William	40 09
342	Sharp, John	42 42
400	Sharp, Thomas	49 98
75	Woodside, Eleanor	11 68
	SLOCUM TOWNSHIP.	
55	Lot No. 4, Certified Newport	3 97
	SUGARLOAF TOWNSHIP.	
353	Rope, Job	553 89
364	Rope, Leonard	644 82
372	Rope, Samuel	552 62
437	Rope, Henry	262 20
534	Steadman, Margaret	41 42
	UNION TOWNSHIP	
150	McNeal, James	27 72
200	Richards, Casper	37 07
324	Wright, Joseph, Estate	59 42
	WRIGHT TOWNSHIP.	
59	Bell, Joseph	9 44
216	Barge, Jacob	29 63
53	Davidson, William, 1st	8 42
175	Evans, Griffith	30 11
50	Guier, Adam	13 60
350	Hollenback, Eleanor	49 35
40	Heller, Susannah	64 40
100	Howell, Joseph	16 00
131	Millier, Catherine	20 94
100	Miller, Charles	16 00
528	Porter, John	74 89
100	Riley, William	16 00
221	Steadman, William	37 95
172	Sheafe, William	32 15
447	Sheafe, Henry	75 45
357	Woodward, George W.	50 58
116	Lot No. 9, Certified Hanover, 3d Div	18 55
117	Lots Nos. 14 & 15, Cert. Havover, 1st Div.	18 75
116	Lot No. 19, Certified Hanover, 3d Div	18 16
185	Lots Nos. 22, 23 & 24, Cert. Han'r. 1st Div.	31 44
80	Lot No. 28, Certified Hanover, 1st Div.	12 80
86	Lot No. 29, Certified Hanover, 1st Div.	13 06
133	Lot No 28, Certified Hanover, 3d Div	19 66
34	Lot No. 18, Certified Hanover, 1st Div.	15 05
66	Brink, John	58 41
231	Lots Nos. 20 and 21, Certified Hanover	34 77
16	Bell, Joseph	31
153	Chambers, H. A.	2 35
120	Evans, Griffith	1 90
434	Gardner, Richard	8 24
435	Hickman, Adam	7 70
317	Mifflin, Benjamin	6 02
109	Perry, Roland	1 90
431	Roberts, William F	8 19
116	Lot No. 20, Certified Hanover	2 21
116	Lot No. 19, Certified Hanover, 1st Div.	2 21
129	Lot No. 29, Certified Hanover, 3d Div	2 45
92	Lot No. 16, Certified Hanover, 3d Div	1 74
94	Lot No. 18, Certified Hanover, 3d Div	1 80

JOHN TURNBACH,
14-17 Treasurer.

CHAS. D. FOSTER,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

SHERIFF'S SALES.

Abstract of property to be sold by J. S. Oberrender, Sheriff of Luzerne county, on Saturday, May 3d, A. D. 1884, at 10 o'clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are numbered, to wit:

1

Suit of Daniel Bloss, executor of the estate of Barnet Whitebread, deceased, v. Richard Whitebread and Charles Stein. Gates, Att'y.

All that piece of land, in the township of Dorrance, bounded on the north by a tract of land in the warrantee name of James Old, on the east by lands of Daniel Whitebread, on the south by lands of Casper Elman, and on the west by Peter Rudley's land and land of James Moyer, containing 84 acres of land, more or less, 80 acres improved, one 2-story frame house with kitchen attached, one bank barn, hog pen, corn crib, wagon shed, large apple orchard and other fruit trees, outbuildings and other improvements. 15-17

ESTATE OF JOSEPH WILLIAMS, LATE OF Pittston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN W. WILLIAMS,
GEO. S. FERRIS, Pittston, Pa.
Attorney. 11-16

ESTATE OF CLINTON W. YAPLE, LATE of Shickshinny, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. A. CAMPBELL,
W. S. McLEAN, Shickshinny, Pa.
Attorney. 12-17

ESTATE OF ELIZABETH MAY, LATE OF Foster township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN H. MAY,
G. L. HALSEY, White Haven, Pa.
Attorney. 13-18

ESTATE OF BERNARD DUFFY, LATE OF Plymouth township, deceased.

Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES L. LENAHAN,
13-18 Wilkes-Barre, Pa.

ESTATE OF ALFRED S. DENNIS, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

L. A. BARBER,
14-19 Forty Fort, Pa.

ESTATE OF FREDERICK BACH, SR., LATE of Wilkes-Barre, deceased.

Letters of administration, *de bonis non, cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons having claims against the same will present them for payment, and those indebted thereto will please make immediate payment to

G. A. BACH,
M. E WALKER, Shickshinny, Pa.
Attorney. 14-19

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SHERIFF'S SALES.

Abstract of property to be sold by J. S. Oberrender, Sheriff of Luzerne county, on Saturday, May 10th, A. D. 1884, at 10 o'clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are number, to wit:

1

Suit of Thomas Ford v. Solomon Sturmer.
Bauman, Att'y.

All that lot of land in the borough of West Pittston, beginning at a corner in line of lands late of the West Pittston Coal Company on the southerly side of Wyoming avenue, thence along Wyoming avenue 21 3-10 rods to a corner, thence 9 3-10 rods to a corner, thence 20 rods to a corner, and thence 16 5-10 rods to the place of beginning; containing 1 acre and 98 perches of land; all improved, and having erected thereon one 1½-story frame dwelling house, barn, and outbuildings.

2

Suit of Sarah S. Bennett v. Alex. Sloan and Mary Sloan. D. S. Bennett, Att'y.

The surface of that lot in Luzerne Borough beginning at a corner in line of Bennet and Church streets, thence 150 feet to an alley, thence 50 feet to a corner, thence 150 feet to Bennett street aforesaid, thence 50 feet to the place of beginning; being lot No. 516 on plot of lots of Sarah S. Bennett. Coal and other minerals reserved. Improved with a 2-story double frame dwelling house, a 1-story frame dwelling house, frame barn, outbuildings and fruit trees thereon.

3

Suit of Simon Muhr v. Samuel Hecht.
Darlings and Lewis, Att'ys.

All those certain lots of ground in the township of Black Creek, in the village of Falls Run, beginning at a corner on Chestnut street, thence south 300 feet to line of lot numbered 64, thence east along said street 150 feet to an alley, thence north along said alley 300 feet to Laurel street, thence west along said street 150 feet to place of beginning; containing 300 feet front and 150 feet deep, known and described as six separate lots in said town plot of Falls Run numbered, to wit: 58, 59, 60, 61, 62, and 63.

4

Suit of John G. Wood v. John N. Davidson and Edward H. Jones. Espy, Att'y.

All that lot of land in Wilkes-Barre, beginning on Franklin street at a corner of land of M. H. Post, thence in a southerly direction along line of said lot 136 feet to a 10-foot alley, thence along said alley in a westerly direction 35 feet to a corner of land now or late owned by H. C. & D. W. Perry, thence northerly along the same and parallel with the first described line 136 feet to a corner on Franklin street, and thence along Franklin street in an easterly direction 35 feet to the place of beginning; containing 4760 square feet of land, be the same more or less; together with the use and occupation of the said alley, running in from Jackson street to line of lot belonging to M. H. Post; all improved, with a 2½-story brick building, with a frame addition attached, and fruit trees thereon.

5

Suit of Joseph K. Bogert v. T. F. Quigley.
Kulp, Att'y.

The surface of all that lot of land in the borough of Miners Mills, bounded northeasterly by the Mocktown road, southeasterly by lot 28, southwesterly by a 15 feet alley, northwesterly by the ends of lots 18, 19, and 20, and extending from the northeasterly side of said alley 165 feet toward said Mocktown road, being 50 feet wide, the lines all at right angles to each other, and containing in all 8250 square feet of surface; improved, with one 2-story frame dwelling house situated on front part of said lot, and one 1½-story frame dwelling house on the rear end of said lot, with outbuildings thereon.

6

Suit of Jesse Hallock, administrator of estate of Calvin Hallock, deceased, v. W. O. Ferrel and D. C. Ferrel. McLean, Att'y.

All that lot of land in the township of Dallas beginning at a corner on the road leading from Northmoreland to Dallas, thence 67½ perches, thence along lands of Michael Rape 81 perches to a creek, thence along said creek 7 perches, thence along said creek 7 perches, thence along said creek 80 perches, thence along said creek 13 perches, thence along said creek 11 perches, thence along said creek 9 perches, thence along said creek 9 perches, thence along said creek 7 perches to a pile of stones, thence along lands of John F. Goldsmith and Ferdinand Ferrel 110 4-10 perches to a road leading from Northmoreland to Dallas, thence along said road 67½ perches to the place of beginning; containing 38½ acres of land, strict measure: improved with a 2-story frame dwelling house, barn and fruit trees thereon.

Also all that lot of land in the township of Dallas, bounded on the south by lands of F. Ferrel, on the east by lands of Wm. O. Ferrel and Malvina G. Ferrel, on the north by lands of Louisa Demond and Henry Anderson, on the west by lands of George Anderson; containing about 45 acres of land, be the same more or less.

The above pieces of land adjoin each other and are used and occupied for farming purposes.

7

Suit of Thomas Birkbeck v. Ernest Schadel.
McLean and Gibbons, Att'ys.

All that lot of land in the township of Foster, near Freeland, beginning at a corner on the east side of Birkbeck street and about 331½ feet south of land now owned by Thomas Birkbeck, thence on Birkbeck street 92 feet to a corner, thence by lands of Joseph Birkbeck's estate 127¾ feet to a corner in line of land belonging to the Highland Coal Company, thence by same 92 feet to a corner, thence by land of Joseph Birkbeck's estate 129½ feet to the place of beginning; containing 11,831 square feet of land, more or less; improved, and having erected thereon one 2-story frame dwelling house, privy, stable, outbuildings and fruit trees.

8

Suit of Brown & Smith and J. E. Coleman, assignee, to Louis Seibel v. Henry Hanson. Mosier, Att'y.

All that lot of land in the borough of Pittston, bounded northerly by land of the estate of Paul Helm, deceased, southerly by land of R. D. Leach, easterly by land of the estate of Thomas Benedict, deceased, and westerly by Main street, said lot being 66 in front on said Main street, the same in rear, and 165 feet deep, containing 10,890 square feet of land, more or less; also improved with one 2-story frame dwelling house, one small wooden building used for a meat market, one barn and other outbuildings thereon.

9

Suit of Peter Smith v. J. R. Kilmer and A. Hazleton. Powell, Att'y.

All that lot of land in the borough of Ashley, beginning at a corner on the main road leading from Hazleton to Wilkes-Barre, thence 144 feet to a corner, thence 28 feet to a corner, thence to said main road, and thence along said road to the place of beginning, it being part of lot No. 2 on Alexander's plot; all improved with one 2-story frame building, used as a dwelling and store, and other improvements thereon.

10

Suit of George K. Powell v. Margaret Loeb, administratrix of the estate of Michael S. Loeb, deceased, and Margaret Loeb. Powell, Att'y.

Suit of E. B. Beaumont, assigned to E. P. Darling, v. Margaret Loeb, administratrix of Michael S. Loeb, deceased, and Margaret Loeb, terre tenant.
Darling, Att'y.

All the following piece of land in the township of Lehman, bounded on the east by lands of James Sheperson on the south by the division line of the townships of Lehman and Jackson, on the west by lands of H. Bogert, and on the north by land formerly of Robert Major; containing 120 acres more or less; about 80 acres improved, with two 2-story frame houses, frame barn, sheds, a large number of fruit trees and other improvements thereon.

The surface of that lot of land in the city of Wilkes-Barre, beginning at a corner of land on Wood street belonging to Phillip Brenner, deceased, 99 feet more or less to land now or formerly owned by Margaret Denn, thence along said line 184 feet to land of Da-

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heirs, thence in a southeasterly direction 77 feet more or less to land of Philip Brenner aforesaid, thence along said Philip Brenner's land 184 feet more or less to the place of beginning; improved, with a 2-story frame dwelling, frame stable, fruit trees and outbuildings.

11

Suit of Ira Davenport v. Andrew Smith.

All that lot of land on Franklin street, in the borough of Plymouth, beginning on Franklin street on a line of Plymouth borough school lot running northeast 122 feet, thence northwest 33 feet along line of Caleb Shonk, thence southwest 122 feet along line of John Prichard, thence southeast 33 feet along Franklin street to starting point; all improved, and having erected thereon one 2-story frame dwelling house, kitchen, shanty, and coal house. 16-18

LICENSES.

Notice is hereby given, that the following persons have filed their applications for license to keep hotels and restaurants, and to sell liquor by the quart, in the office of the Clerk of the Court of Quarter Sessions of the county of Luzerne, and that said applications will be heard by the court on Monday, May 5, 1884:

HOTELS.

Hahn . . . . Wm. Henry Rinehart Wright Tp.

WILKES-BARRE

Mahon . . . J. Wenirowitz . . . . Seventh Ward.

L. K. STRENG,
15-17 Clerk Q. S.

ESTATES TO BE AUDITED BY THE Orphans' Court of Luzerne county. Notice is hereby given that accounts have been filed and confirmed absolutely by the court in the following estates:

1. E. V. Kidder, E. H. Moreau; R. Bruce Ricketts, G. M. Reynolds, and W. H. Sturdevant, Trustees; 13th May, 1884.

2. Anthony Cuff; J. C. Williamson, Administrator; 13th May, 1884.

3. Abraham Smith; Stephen Turnbach, Administrator, c. t. a., d. b. n.; 14th May, 1884.

4. Matthew Lardner; John A. Collier, Administrator; 14th May, 1884.

5. David Gordon; H. B. Payne, Trustee; 15th May, 1884.

6. Abigal Barney; C. W. Boone, Administrator; 15th May, 1884.

7. Thomas Lynn; Michael Bolin, Executor; 16th May, 1884.

8. Julia Roberts; Alfred P. House and Francis H. Chevers, Administrators; 16th May, 1884.

9. William Santee; Jonathan Bonham, Administrator; 19th May, 1884.

10. C. R. Gorman; J. B. Shiffer, Administrator; 13th May, 1884.

11. Gwennie Davis; C. H. Wells, Executor; 20th May, 1884.

11. Edgar Green; Isaac Sutton, Executor; 20th May, 1884.

The accounts enumerated and designated in the above list will be audited by the court, in the Court House, in the Orphans' Court room, during the session of court on the days set forth opposite the name of each estate, at which time all persons interested shall attend, if they see fit, and present their claims against said estate, or forever thereafter be debarred from coming upon said fund.

JOSEPH HENDLER,
17-19 Clerk O. C.

ESTATE OF ELIZABETH GILCHRIST, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

AGNES GILCHRIST,
ANNA C. GILCHRIST,
ISABELLA M. GILCHRIST,
GEO. H. FISHER, Wilkes-Barre, Pa.
Attorney. 15-20

SHERIFF'S SALES.

Abstract of property to be sold by J. S. Oberrender, Sheriff of Luzerne county, on Saturday, May 17th, A. D. 1884, at 10 o'clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are numbered, to wit:

1

Suit of Mrs. J. W. Rockwell v. H. E. Klein.

Butler, Att'y.

All the undivided seven-eights interest of the defendant of, in, and to the surface of all the lots situate in Pittston township, and designated on Schlager's & Tropp's plot of addition to the village of Heidelburg, and contained and designated in blocks Nos. 150 to 169 inclusive; also, all the right, title and interest of the defendant in the surface of all lots in blocks Nos. 1, 10 and 19, and lots Nos. 2, 3 and 4 in block No. 11, as designated and laid out on Charles Schlager's map or plot of the village of Heidelburg, Pittston township; lots Nos. 1 and 2 in block No. 1 are improved with a 2-story frame dwelling house, frame barn and other outbuildings.

2

Suit of Jacob Crouse v. E. IK. Shellhammer and Augustus Crouse, administrator of Samuel Shellhammer, deceased. Gates, Att'y.

All that tract of land in Black Creek township, beginning at a pitch pine, thence by land of Peter Smoyer 207 perches to a stones corner on line of William Shellhammer, thence by land of William Shellhammer and Peter Roberts 62 5-10 perches to stone corner on land of David Shellhammer, thence by said David Shellhammer's land 88 5-10 perches to a corner, thence 12 perches to corner in line of John Hart, thence by land of said Hart 82 perches to stones, 40 perches to corner, thence 14 8-10 perches to stones corner, thence by land of E. K. Shellhammer 52 4-10 perches to stones on land of Abram Smith, thence by said Smith's land 100 perches to place of beginning; containing 106 acres and 35 perches, about 65 acres improved, with two 2-storied wood dwelling houses, a wood barn and saw mill, wagon shed and corn crib, and other outbuildings, two apple orchards, occupied by Samuel Shellhammer; also, all that tract of land in Black Creek township, beginning at a pitch pine corner on land of David Shellhammer, running thence by David Shellhammer's land 101 perches to a pitch pine corner, thence 41 perches to a maple corner, thence by land of William Reagan 118 perches to stones, thence 15 perches to corner on land of Samuel Shellhammer, thence by said Shellhammer's land 52 4-10 perches to stones corner, thence 14 8-10 perches to stones, thence 18 6-10 perches to a hemlock, thence 10 perches to stones, thence 11 9-10 perches to a corner common to lands of John Hart and Samuel Shellhammer, thence by land of John Hart 49 perches to a walnut, thence 18 3-10 perches to a stone, thence 62 perches to land of Perry Boone, thence by said Boone's land 69 perches to place of beginning; containing 87 acres and 130 perches, about 25 acres improved, with two 2-storied wood dwelling houses, one wood barn, one wagon shed, one wood stable, one bone mill, one apple orchard.

3

Suit of Henry Geist, assigned to Lazarus Moyer, v. William K. Warman.

Harding & McGahren, Att'ys.

All that piece of land in the township of Plymouth, beginning at a post, on north side 125 perches to a post of Warman's corner, thence along Delaware, Lackawanna & Western land 80 perches to a stone wall, thence along Thomas Mast or the Susquehanna Coal Company to a pine tree 125 perches, thence to the place of beginning; containing 10 acres of land, more or less; all improved, and having erected thereon one frame dwelling house, barn and outbuildings.

4

Suit of J. E. Patterson, assigned to R. M. Welles and Amelia P. Welles, trustees, v. The Pittston Knitting Company, Limited. Lewis, Att'y.

All that lot of land in the borough of Pittston, beginning at a corner on Main street in line of land now or late of Thomas Hughes, thence along Main street in a

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northerly direction about 480 feet to a corner, thence in a northwesterly direction about 35 feet to the North Branch canal, thence along said canal in a southerly direction about 480 feet to a corner in line of land of the said Thomas Hughes, and thence in an easterly direction along said line about 110 feet to the place of beginning; excepting and reserving out of the same a right of way 20 feet wide; all improved, with one large 2-story frame building with stone basement, one deep well 7 feet in diameter, one 2-story brick "picker house" with stone basement, containing machinery, consisting of wool pickers, fans, pullies, belts, shafting, dye tubs, wash box, water tanks, iron piping in place, etc.; one large brick boiler house, with dying room connected, containing 4 large boilers in nests of 2 each with proper steam connections, pipes, etc.; one large brick smoke stack about 80 feet high, one engine in place on stone engine seat with steam connections; also, a lot of water and steam pipes; also, stone foundation for a building 40 by 50 feet. Ample drainage facilities from the premises by a private sewer.

5

Suit of Eckley B. Coxe, administrator, d. b. n., c. t. a., of the estate of Tench Coxe, deceased, v. Albert P. Goedecke and Gabriel Lutz, terre tenants.

A. H. McClintock, Att'y.

A tract of land, being the whole of the tract of land surveyed in the warrantee name of Benjamin Mason, in Butler township, beginning at a stones corner of land surveyed in the warrantee name of Abram Mason, thence along the line of the said Abram Mason survey 308 perches to a stone heap, thence partly by land surveyed in the warrantee name of John Swain, and partly by land surveyed in the warrantee name of William Steadman 217 7-10 perches to a stones, late pine tree, corner, thence along the line of other land surveyed in the warrantee name of William Steadman 369 perches to a stones corner, thence along the line of land surveyed in the warrantee name of John Eke 167 perches to a white oak, thence along the line of other land surveyed in the warrantee name of William Steadman 70 perches to the stones corner, the place of beginning; containing 426 acres 51 perches and allowances.

6

Suit of The Lehigh & Wilkes-Barre Coal Company v. Thomas Wilson. McClintock, Att'y.

The surface of all that lot of land in the city of Wilkes-Barre, bounded as follows: being contiguous lots numbered one and two in block No. 15 on the map of borough lots laid out by said Lehigh & Wilkes-Barre Coal Company, beginning at the southwesterly corner of South and Grant streets, thence southwesterly along said Grant street 180 feet to an alley, thence southeasterly along said alley 80 feet to corner of lot No. 3 in said block, thence northeasterly along line of said lot No. 3 180 feet to South street aforesaid, thence northwesterly along said South street 80 feet to the place of beginning; excepting and reserving to the Lehigh & Wilkes-Barre Coal Company, its successors and assigns, the coal and other minerals under said lot, with the right to mine and remove the same without liability for injury to said surface by reason of said coal.

7

Suit of Abram Nesbitt, trustee, v. William Fahey. Shonk, Att'y.

All the surface of that lot of land in Plymouth borough, beginning at a corner on Walnut street, thence along land of Daniel Gardner 145 feet to a corner, thence along a lot sold to Martin Corley 75 feet to a corner, thence 142 8-10 feet to a corner, thence along Walnut street 50 feet to the beginning; containing 9,700 square feet; The coal, mineral and mineral ores in, under and upon the same being owned by Abram Nesbitt.

8

Suit of John Kern and John J. Shonk v. Jacob Boyer. Shonk, Att'y.

1. All that lot of land in Plymouth township, bounded on the east by the old Blindtown road, on the north by lands of Andrew Hunlock, on the west by lands of Boyer, on the south by lands of P. R. Hunter, being about 100 feet in front on said road, and 165 feet deep, and containing about 17000 square feet of land, being lots 10 and 12 on plan of lots laid out by Andrew Hunlock; all improved, with one large 2-story frame dwelling house, a well, fruit trees and outbuildings thereon.

2. All that lot of land in Plymouth township, beginning at the corner of the Blindtown road and Lincoln street, thence along Lincoln street 155 feet to a corner, thence about 50 feet to a corner, thence 155 feet to a corner on the Blindtown road, thence along said Blindtown road about 50 feet to the place of beginning, being lot No. 8 on plot of lots laid out by Andrew Hunlock; all improved.

3. All that lot of land in the township of Plymouth, beginning at a corner on the main road leading to Mill Hollow, thence by land lately owned by —— McGinnis 10 perches to a corner, thence 8 perches to a corner, thence 10 perches to a corner on said road leading to Mill Hollow, thence along said road 8 perches to the place of beginning, containing 80 perches of land more or less; all improved, with two large frame dwelling houses 2 stories high, a barn, outbuildings, and fruit trees thereon.

4. All that lot of land in the township of Plymouth, beginning at a corner on a new street laid out by Harrison Nesbitt et al. in Larksville, thence along a lot now or lately owned by George Snyder et al. 186 feet to land of Joseph Jacquish, thence along said lot 50 feet to land of S. Vannetters, 186 feet to said new street, thence along said street 50 feet to the place of beginning, containing about 9500 square feet of land more or less; all improved, with one 2-story frame dwelling house, a barn, a well, fruit trees, and outbuildings thereon.

9

Suit of Henry Sondheim v. Meyer Sondheim.

Troutman, Att'y.

All that lot of ground in the borough of Freeland, beginning at a point on the east side of Centre street, 87 feet from the northeast corner of Centre street and Main street, and extending thence on and along said Centre street 25 feet to lands of Charles Gallagher, thence along said lands of Charles Gallagher 46 feet to lands which belonged to Joseph Birkbeck, thence along said lands 25 feet to lands of Rosa Gallagher, thence along said lands 46 feet to place of beginning, containing 1150 square feet more or less, being part of lot marked No. 59; all improved, and having erected thereon one 2-story frame store and dwelling house.

10

Suit of George Smith, assigned to J. C. Wells, v. Peter Conlan.

All that lot of land in the city of Wilkes-Barre, beginning at a corner of lot No. 3, now owned by A. and M. Kelley, on the southeast side of the Wilkes-Barre and Hazleton turnpike, and running thence 171 feet to a corner on line of land owned by the Franklin Coal Company, thence along said lands 50 4-10 feet to corner of lot No. 5, now occupied by Patrick Reynolds, thence along said lot No. 5 176 feet to a corner on line of the turnpike aforesaid, thence along said turnpike 50 feet to the place of beginning; containing 8,656 square feet of land, more or less, with 2-story frame building, barn and outbuildings thereon, being lot No. 4 on plot of Thomas Hughes' lots. The coal is sold. All improved, and having erected thereon one frame building used as a store and dwelling, one frame barn and outbuildings.

11

Suit of use of Wyoming Building Association v Garner A. Park.

All that lot of land in Lehman township, bounded on the southeast by land now or formerly owned by Isaac Elston, on the southwest by land of Daniel J. Whiteman, on the northwest by land of David Ide, on the northeast by land of David Ide et al., containing 104 acres of land more or less, with the appurtenances; improved, with one 2-story frame and plank house, one barn, one shed, one wagon house, one pig pen, one orchard; also, one frame house and one barn on the back end of the farm, and other outbuildings and fruit trees. 17-19

WILLIAM S. McLEAN,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

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ZIBA MATTHERS,
a student at law in the office of Geo. B. Kulp, will apply at June term, 1884, for admission to practice as an attorney in the several courts of Luzerne county.
19-21

AUDITOR'S NOTICE.
The undersigned, an Auditor, appointed by the Court of Quarter Sessions of Luzerne county to marshal the indebtedness of the original School District of Buck township, and to apportion the same between the Buck Township School District, as now constituted, and the Lehigh School District, which is a portion of said original School District, hereby gives notice, that he will attend to the duties of his appointment, at his office, No. 5 South Franklin street, Wilkes-Barre, Pa., on Tuesday, the 27th day of May, A. D. 1884, at 10 o'clock A. M., at which time and place all parties having claims against said district are required to present them, and all parties interested are notified to appear.
F. C. STURGES,
17-20 Auditor.

WIDOWS' APPRAISEMENTS.
Notice is hereby given to all persons concerned, that widows' appraisements in the following estates have been approved nisi by the Orphans' Court of Luzerne county, and, unless exceptions are filed, will be presented for final approval on Monday, the 12th day of May, 1884:
L. H. Steele, Lewis Frederick, John J. Hummel, and Anthony Benscoter, deceased.
JOSEPH HENDLER,
17-19 Clerk O. C.

INCORPORATION OF HEIDELBERG BOROUGH.—Notice is hereby given to all persons interested, that an application will be made to the Court of Quarter Sessions of Luzerne county, on Monday, May 26, 1884, at 10 o'clock A. M., by certain citizens and freeholders residing in a certain portion of Pittston township, in said county, asking that said portion of Pittston township shall be incorporated in a borough.
DAVID L. PATRICK,
18-20 Attorney for Petitioners.

ESTATES TO BE AUDITED BY THE Orphans' Court of Luzerne county. Notice is hereby given that accounts have been filed and confirmed absolutely by the court in the following estates:
1. E. V. Kidder, E. H. Moreau; R. Bruce Ricketts, G. M. Reynolds, and W. H. Sturdevant, Trustees; 13th May, 1884.
2. Anthony Cuff; J. C. Williamson, Administrator; 13th May, 1884.
3. Abraham Smith; Stephen Turnbach, Administrator, c. t. a., d. b. n.; 14th May, 1884.
4. Matthew Lardner; John A. Collier, Administrator; 14th May, 1884.
5. David Gordon; H. B. Payne, Trustee; 15th May, 1884.
6. Abigal Barney; C. W. Boone, Administrator; 15th May, 1884.
7. Thomas Lynn; Michael Bolin, Executor; 16th May, 1884.
8. Julia Roberts; Alfred P. House and Francis H. Chevers, Administrators; 16th May, 1884.
9. William Santee; Jonathan Bonham, Administrator; 19th May, 1884.
10. C. R. Gorman; J. B. Shiffer, Administrator; 19th May, 1884.
11. Gwennie Davis; C. H. Wells, Executor; 20th May, 1884.
12. Edgar Green; Isaac Sutton, Executor; 20th May, 1884.
The accounts enumerated and designated in the above list will be audited by the court, in the Court House, in the Orphans' Court room, during the session of court on the days set forth opposite the name of each estate, at which time all persons interested shall attend, if they see fit, and present their claims against said estate, or forever thereafter be debarred from coming upon said fund.
JOSEPH HENDLER,
17-19 Clerk O. C.

NOTICE IS HEREBY GIVEN, THAT AN application will be made, under the Act of Assembly approved April 29th, 1874, to one of the Judges of the Court of Common Pleas of Luzerne county for an amendment to the charter of the Mill Creek Christian Church, so that the corporate name will be The Mill Creek Primitive Methodist Church.
JOSEPH MOORE,
17-19 Solicitor.

ESTATE OF FREDERICK BACH, SR., LATE of Wilkes-Barre, deceased.
Letters of administration, *de bonis non, cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons having claims against the same will present them for payment, and those indebted thereto will please make immediate payment to
G. A. BACH,
M. E. WALKER, Shickshinny, Pa.
Attorney. 14-19

ESTATE OF ALFRED S. DENNIS, LATE OF Wilkes-Barre, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to
L. A. BARBER,
14-19 Forty Fort, Pa.

ESTATE OF PETER SCANLAN, LATE OF Wilkes-Barre, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to
PATRICK McGROARTY,
15-20 Wilkes-Barre, Pa.

ESTATE OF ELIZABETH GILCHRIST, LATE of Wilkes-Barre, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to
AGNES GILCHRIST,
ANNA C. GILCHRIST,
ISABELLA M. GILCHRIST,
GEO. H. FISHER, Wilkes-Barre, Pa.
Attorney. 15-20

ESTATE OF ELIAS HOYT, LATE OF KINGston township, deceased.
Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to
ABRAM NESBIT,
H. B. PAYNE, Kingston, Pa.
Attorney. 15-20

ESTATE OF WILLIAM EASTWOOD, LATE of Hazle township, deceased
Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are aequested to make payment, and those having claims or demands to present the same, without delay, to
WILLIAM W. DAVIS,
16-22 Stockton, Pa.

ESTATE OF WILLIAM PEGG, LATE OF Hazleton, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to
GEORGE KISHBAUGH,
18-23 Hazleton, Pa.

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ESTATE OF BALTHAZAR LUCHSINGER, late of Pittston, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ANNA BURSCHEL,
Dunmore, Lack. Co., Pa.
SEBELLA ELTERICH,
ANTH. BAUMAN, Pittston, Luz. Co., Pa.
Attorney. 15-20

ESTATE OF CELIA A. WEBBER, LATE OF Pleasant Valley, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES WEBBER,
F. C. MOSIER, Marr, Pa.
Attorney. 16-21

ESTATE OF ELIZABETH BRIGGS, LATE OF Hollenback township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

J. F. BRIGGS,
M. E. WALKER, Shickshinny, Pa.
Attorney. 16-21

ESTATE OF MARY ANN HILL, LATE OF Salem township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

F. E. BROCKWAY,
A. K. OSWALD, Beach Haven, Pa.
Attorney. 17-22

ESTATE OF NATHAN WHITNEY, LATE of Hunlock township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

MARY R. MATTHERS,
M. CANNON, Hunlock's Creek, Pa.
Attorney. 17-22

ESTATE OF HELEN A. BRYANT, LATE OF the Borough of Blakely, Lackawanna county, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

S. B. STURDEVANT,
18-23 Wilkes-Barre, Pa.

ESTATE OF CHARLES KULP, LATE OF Butler township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

FRANKLIN E. KULP,
FREDERICK REIFENBURG,
H. B. PAYNE, St. John P. O.
Attorney. 18-23

ESTATE OF WILLIAM H. THOMAS, LATE of Ashley, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE THOMAS,
ANDREW HUNLOCK, Ashley, Pa.
Attorney. 18-23

ESTATE OF ISAAC RICE, LATE OF KINGston township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CLARENCE J. RICE,
ABRAM NESBITT,
18-23 Kingston, Pa.

ESTATE OF HARRISON HEAVNER, LATE of Nescopeck township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BENJAMIN EVANS,
C. B. JACKSON, Nescopeck, Pa.
Attorney. 19-24

ESTATE OF MARTHA A. KIDDER, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

REV. C. H. KIDDER,
19-24 Wilkes-Barre, Pa.

CHAS. D. FOSTER,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

W. S. PARSONS,
ALDERMAN,
WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, MAY 16, 1884. NO. 20.

Court of Common Pleas of Chester County.

IN RE FOREST'S APPLICATION.

A married woman may, with the consent of her husband, adopt a child under the act of May 4, 1855.

Selina Forest, a married woman, presented her petition in the usual form, setting forth her desire to adopt Annie E. Rhoades, and praying for a decree, her husband consenting thereto.

April 28, 1884.—The court (Futhey, P. J.) entered the decree as prayed for.

Court of Quarter Sessions of Schuylkill County.

RYAN TOWNSHIP ROAD.

If only two of three road viewers participate in a view, the error is fatal. It must affirmatively appear that the viewers were sworn.

The opinion of the court was delivered February 18, 1884, by

GREEN, J.—There are two fatal objections to this report as shown upon its face: 1st, The view was made and report made by only two of the three viewers appointed. The law requires that all three should participate in the view, though only two need concur in the report. 2d, The report does not show that the viewers were either sworn or affirmed, nor does it otherwise appear. This is fatal. Bryson's Road, 2 Pen. & W., 207; Road from Morrison's lane, 3 S. & R., 210; Road in Macungie township, 2 Casey, 221.

And now, February 18, 1884, report set aside.

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Supreme Court of Pennsylvania.

LAUREL RUN BUILDING ASSOCIATION *v.* SPERRING.

1. One who sues a building association as a withdrawing stockholder cannot recover the value of stock which he held, but only the money that he has actually paid in, less his proportion of expenses and losses.
2. Whether a stockholder can withdraw from the association after the maturity of his stock, *quaere*; probably not.
3. O'Rourke *v.* Building Association, 12 Norris, 308, followed.
4. When stock has matured, the stockholder is not of course entitled to its par value, but only to that less his share of the expenses and losses incurred in winding up.
5. It seems that a *venire de novo* is sometimes allowed where the plaintiff has no right to recover.

Error to the Common Pleas of Luzerne county.

The opinion of the court was delivered April 28, 1884, by

PAXSON, J.—The rights of the plaintiff below as a withdrawing stockholder are fixed by the act of 12th April, 1859, P. L. 544, and the constitution and by-laws of the defendant company. These limit his right of recovery to the amount of dues which he had actually paid in, with interest thereon at the rate of six per cent. per annum, less all fines and his proportion of expenses or losses incurred. In point of fact, he was allowed to recover, not the withdrawal value of his stock, but its par value as reduced. That this was error is too obvious to need an extended discussion.

The plaintiff owned seven shares of stock in the first series. Upon five of these shares he had borrowed the full amount, $200 per share, and had given one or more judgments therefor amounting to $1000 with the seven shares of stock as collateral. Two of his shares were what is called free stock, that is, it had not been borrowed upon although pledged with the others. In 1877 the association, owing, it is stated, to the general depression of business, passed a resolution reducing the par value of the stock from $200 to $116 per share; that the stockholders pay in $20.20 per share, and that all of the stockholders in the first series who should comply with the resolution prior to the ensuing May meeting should "be entitled to the amount of their

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stock at $116 per share." The amount of plaintiff's assessments on his seven shares under this arrangement was $141.40, which was charged against his two free shares. He then procured satisfaction to be entered upon the judgments which the association had against him. No money was paid by the plaintiff, and the effect of the transaction was the satisfaction of the judgments which were only paid in part, and an advance to him by the association of $141.40 on the faith and credit of his remaining two shares of stock. As a result of this somewhat questionable proceeding, he held two shares of stock of the fixed value of $116 each—$232, upon which he owed the company $141.40, leaving an apparent balance due him of $90.60, which he would be entitled to receive upon the final winding up of the first series. That he was not entitled to sue for it at law was settled in O'Rourke *v.* West Pennsylvania Loan and Building Association, 12 Norris, 308. To meet this difficulty, on July 6, 1881, he gave notice of withdrawal, and subsequently commenced this suit, in which he was permitted to recover the above sum of $90.60 with interest. The result is to let him out as a withdrawal stockholder with a full share of the profits on the seven shares, and to avoid all losses in the winding up resulting from expenses, depreciation of property, etc. On the five shares he got his profit for the reason that his judgments were satisfied without payment, and on the two shares he gets the matured value of the stock. This result could not be reached without error somewhere.

Upon the trial below, assuming that he was a withdrawal stockholder, he should have been confined to his notice, and permitted only to recover what he claimed therein, viz., "to have returned to him the moneys paid in by him, and returnable to him as a withdrawing stockholder, under the provisions of the constitution and by-laws of the association." The par value of the stock has nothing to do with the case, and should not have been considered.

Just what amount of fines, losses, and expenses the company were entitled to charge against him we are not called upon to say, for the reason that the plaintiff was not a withdrawing stockholder, and could not have been under the act of 1859, so long as his stock was held in pledge. Watkins *v.* Building and

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Loan Association, 1 Outerbridge, 514. It appears from the plaintiff's own testimony that the two shares for which this suit was brought were applied by his direction to his indebtedness or arrearages on the other five shares, as well as on the two shares in question. This, as before stated, was $140; no part of which has been paid. It was only charged. It would be further liable for all proper arrearages and charges, and for his proportion of losses which may have been incurred prior to his notice of withdrawal, conceding such withdrawal to be valid. For it is idle to say that, when stock, or a particular series of stock, matures, a holder is entitled absolutely to its par value. From such value must necessarily be deducted any expenses or losses incurred in winding up the association, or the particular series. Such losses may be trifling, or they may be serious. What the stockholders are entitled to under such circumstances is an equal division of the assets, less expenses and losses.

Aside from this, assuming that the resolution of February 6, 1877, matured the stock of the first series, I am unable to see how a stockholder of that series can withdraw after such maturity. The plain object of the act of 1859 was to permit a stockholder to withdraw during the active life of the association or the series. It makes no provision for a withdrawal after the stock has reached par, and the association exists only for the purpose of liquidation. Nor can any object be perceived for such withdrawal except to gain the right to sue immediately for the value of the stock. This would be giving an unfair advantage which the law does not favor.

The plaintiff has no right to recover in this action, and the court below should have so instructed the jury.

This sustains the fourth and fifth assignments. The others are not in conformity with the rules of court.

Judgment reversed, and a *venire facias de novo* awarded.

M. Cannon, Esq., for plaintiff in error.

W. P. Ryman, Esq., *contra.*

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NOTICE IS HEREBY GIVEN, THAT JOHN P. Kelly, a member of the Lackawanna county bar, will apply for admission to practice as an attorney in the several courts of Luzerne county, at May term, 1884. 18-20

NOTICE IS HEREBY GIVEN, THAT CHAS. B. Staples, a member of the Monroe county bar, will apply for admission to practice as an attorney in the several courts of Luzerne county, at June term, 1884. 19-21

NOTICE IS HEREBY GIVEN, THAT JOHN McGeady has presented his petition for the benefit of the insolvent laws, and that the time for hearing said petition is fixed for the 24th day of May, 1884, at 10 o'clock A. M.

B. McMANUS,
Attorney for Petitioner.

NOTICE IS HEREBY GIVEN, THAT OWEN Callaghan has presented his petition for the benefit of the insolvent laws, and that the time for hearing said petition is fixed for the 2d day of June, 1884, at 10 o'clock A. M.

M. CANNON,
Attorney for Petitioner.

SHERIFF'S SALES.

Abstract of property to be sold by J. S. Oberrender, Sheriff of Luzerne county, on Saturday, June 7th, A. D. 1884, at 10 o'clock A. M., at the Arbitration Room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are numbered, to wit:

1

Writ of George N. Nagle, administrator of John Nagle, deceased, assigned to Henry H. Welles, now assigned to I. E. Ross and Mary Lockhart, administrators of James Lockhart, deceased, v. John Davis.

McLean & Gibbons, Att'ys.

All that lot of land in the city of Wilkes-Barre, beginning at the southerly corner of Main and Ash streets, thence southwesterly along Main street about 141 feet to land of Dennis McQuillan, thence along same southeasterly about 186 feet to a corner, thence northeasterly about 75 feet to said Ash street, thence northwesterly along same about 186 feet to the beginning, together with a 3-story brick house with store room, a frame barn, and outbuildings thereon.

The above-described property will be sold in four parcels as follows:

1. A parcel fronting upon Main street, being the corner of Main and Ash streets, and the lot upon which is the brick building above described, being 32 feet in front and rear, and 141 feet in depth.

2. A parcel adjoining said parcel 1, and also fronting upon Main street, being 24 feet in front and rear, and 141 feet in depth.

3. A parcel adjoining said parcel 2 on the one side and lands now of F. J. Helfrich on the other side, also fronting upon Main street, being 24 feet in front and rear, and 141 feet in depth.

4. A parcel upon Ash street, upon which is the barn hereinbefore described, said parcel being 45 feet in front and rear, and 30 feet in depth.

2

Writ of Reuben Flickinger, assigned to Philip D. Fritzinger, v. G. W. Fritzinger. Powell, Att'y.

All that piece of land in the township of Butler, beginning at a stone corner at the edge of the Hazleton and Wilkes-Barre road, thence by land now or late of Nathan Yost, designated as lot No. 1, 25 6-10 perches to a stone corner, thence by land of Hartman Linderman 17 perches to a stone corner, thence by lot now or late of said Yost, and designated as lot No. 3, 33 5-10 perches to said public road, thence along said road one hundred perches, thence 1 perch to the place of beginning, containing about 3 acres and 18 perches, being lot No. 2 and part of lot No. 1; excepting and reserving about three-quarters of an acre of said lot sold to Thomas Fritzinger; all improved, with a large 2-story frame building now or late used as dwelling and saloon, barn, stable, well, and fruit trees thereon. 20-22

PARTITION SALE.

Estate of Rosewell Trumbell, deceased. By virtue of an order of the Court of Common Pleas of Luzerne county, Pa., in a certain action of partition, wherein C. R. Trumbell is the plaintiff and Simon Trumbell et al. are the defendants, the undersigned, trustee of said estate, will expose to public sale at the Mansion House, on the premises, now occupied by C. R. Trumbell, in Black Creek township, on Thursday, the 29th day of May, 1884, at 2 o'clock P. M., the following valuable real estate, viz.:

Those two certain messuages or lots of land situate in the township of Black Creek.

PURPART A.—Beginning at a stone heap corner also of land of Martin Rittenhouse's land, thence by line of said Rittenhouse and in a line of land of the Black Creek school house to a stone in a small steam of water near said school house about 27 perches and 2 pole chains, thence in a line of John Wolfe's land 2 perches to a stake near said small stream, thence in a line of said Wolfe's land 12 perches to a stake near a white oak tree, thence in a line of John Barnes' land 142 perches to a stone in the east side of said stream of water, thence in a line of Samuel Smith's land 66 perches to a post in line of said Rittenhouse's land, thence in last said line 142 perches to the place of beginning; containing 55 acres of land and allowance; mostly improved land, and having thereon one 2-story frame dwelling house, bank barn, orchard, outbuildings, etc.

PURPART B.—Beginning at a stone corner of lands of Barlow and James I. Pegg on the south side of the Conyngham and Catawissa road, thence by said road and land of said Pegg 10 perches to a stone corner, thence by same 14 2-10 perches to a stone corner, thence by land of James S. Pegg 19 5-10 perches to a stone on the line of said Pegg and Barlow, thence by the other lot hereinafter to be described 30 perches to the place of beginning; containing 1 acre and 51 perches neat measure.

Also, as part of this piece of land, and adjoining to and conveyed by the same deed, the following described lot, beginning at the same first corner of above described lot, thence by same first described lot 30 perches to a stone corner, thence by land of Barlow 30 6-10 perches to a stone corner, thence by same 24 2-10 perches to the place of beginning; containing 2 acres and 16 perches of land neat measure; all improved land, having thereon one 2-story frame dwelling house, a barn, fruit trees, outbuildings, etc.

TERMS OF SALE.—20 per cent. payable on day of sale, 30 per cent. on confirmation of sale, and balance payable in six months from day of confirmation. Deferred payments to be secured by bond and mortgage, bearing interest from confirmation of sale.

W. G. GREGORY,
Trustee.

Q. A. GATES,
Attorney. 18-20

ORPHANS' COURT SALE.

Estate of Ellen Taylor, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Store of Pennington & Moore, at Fairmount Springs, in Fairmount township, on Thursday, the 12th day of June, A. D. 1884, at 10 o'clock A. M. sharp,

The following real estate in said Fairmount township, beginning at a corner of Jacob Tight's land, thence by Calloway Harvey and Enos Horn 42 perches, thence west 30 perches, thence by land of Borner Miller heirs 50 perches, thence north 20 perches, thence by William Hirlinger 141 perches, thence south 20 perches, thence by land of Jacob Tight 106.05 perches to the place of beginning; containing 50 acres, more or less; about 30 acres cleared, balance timbered.

TERMS OF SALE.—One-third cash, one-third at confirmation and delivery of deed, balance six months from day of sale with interest. Deferred payment secured by bond and mortgage on premises. At option of purchaser, the whole may be paid on confirmation of sale and delivery of deed.

P. C. WADSWORTH,
Trustee.

S. M. RHONE,
Attorney. 20-22

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ORPHANS' COURT SALE.

Estate of L. H. Steele, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, in the city of Wilkes-Barre, on Thursday, the 5th day of Juue, A. D. 1884, at 10 o'clock A. M.

A lot of land in the borough of Plymouth, beginning at a corner 50 feet from the southeast corner of the Presbyterian Church lot on the northwest side of Church street, thence 147 feet to a corner, thence along the adjoining tier of lots 50 feet to a corner, thence 147 feet to a corner, thence along Church street 50 feet to the place of beginning; containing 7350 square feet of surface or soil, be the same more or less; coal and other minerals reserved; having erected thereon a 2-story frame dwelling, and other improvements.

TERMS OF SALE.—$500 down, balance on confirmation of sale and delivery of deed.

S. A. STEELE,
Administratrix.

H. C. MAGEE,
Attorney.

20-22

ORPHANS' COURT SALE.

Estate of Adam Good (Gouth or Guth), dec'd. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, in the city of Wilkes-Barre, on Thursday, the 12th day of June, A. D. 1884, at 10 o'clock A. M. sharp,

The following real estate, situate on southerly side of Lehigh (formerly Main) street, beginning on Lehigh street, thence easterly 45 feet to Hickory street, thence along Hickory street 150 feet, thence in northerly direction parallel with Lehigh street 45 feet, thence 150 feet to the place of beginning.

TERMS OF SALE.—One-half cash on day of sale, balance on confirmation of sale and delivery of deed.

PETER GOOD,
Administrator.

S. M. RHONE,
Attorney.

20-22

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Monday, the 2d day of June, 1884, at 10 o'clock A. M., under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, for the charter of an intended corporation, to be called "The Broadway Hall Association of the Borough of Nanticoke, Luzerne county, Pa.," the character and objects whereof is the maintenance and discipline of a military organization, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements.

GEO. B. KULP,
Solicitor.

20-22

INCORPORATION OF HEIDELBERG BOROugh.—Notice is hereby given to all persons interested, that an application will be made to the Court of Quarter Sessions of Luzerne county, on Monday, May 26, 1884, at 10 o'clock A. M., by certain citizens and freeholders residing in a certain portion of Pittston township, in said county, asking that said portion of Pittston township shall be incorporated in a borough.

DAVID L. PATRICK,
Attorney for Petitioners.

18-20

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 229, November term, 1883. Libel in divorce a vinculo matrimonii. James A. Fleming v. Mary Fleming. To Mary Fleming—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoenas having failed on account of your absence. Returnable on Monday, June 2, A. D. 1884, at 10 o'clock A. M.

B. McMANUS,
Solicitor.

20-21

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county No. 209, January term, 1884. Libel in divorce a vinculo matrimonii. Diannah Yocum, by her next friend, Elisha Culver, v. James M. Yocum. The alias subpoena in the above case having been returned, "That the said James M. Yocum cannot be found in Luzerne county." You, the said James M. Yocum, respondent, are required to appear on Monday, October 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.

M. E. WALKER,
Attorney.

20-23

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county No. 46, February term, 1884. Libel in divorce a vinculo matrimonii. Susanna Hoch, by her next friend, Emanual Rogers, v. Stephen Hoch. The alias subpoena in the above case having been returned, "That the said Stephen Hoch cannot be found in Luzerne county." You, the said Stephen Hoch, respondent, are required to appear on Monday, October 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.

H. HAKES,
Attorney.

20-23

ESTATES TO BE AUDITED BY THE Orphans' Court of Luzerne county. Notice is hereby given that accounts have been filed and confirmed absolutely by the court in the following estates:

1. John M. Stackhouse; James Post, administrator; 3d June, 1884.
2. Job Kocher; Reuben Godshall, executor; 3d June, 1884.
3. Isabella Mitchell; Robert C. Mitchell, administrator; 4th June, 1884.
4. Samuel Hoyt; Abram Nesbitt, administrator; 4th June, 1884.
5. Charity Pringle; Jacob G. Pringle, administrator; 4th June, 1884.
6. Philip Houpt; L. H. Bennett, trustee; 5th June, 1884.
7. John Fairchild; John M. and Henry S. Fairchild, administrators; 5th June, 1884.
8. Aaron Thomas; Elizabeth Thomas (now dec'd) and Reuben Thomas, executrix and executor; 6th June, 1884.
9. Jacob Drum; Milton Drum, executor; 6th June, 1884.
10. Nathan Rabert; Francis Evans, administrator; 9th June, 1884.
11. John Henry; C. B. Jackson, administrator; 9th June, 1884.
12. George Brown; Reuben Swank, administrator; 10th June, 1884.
13. James Dolan; Philip McAniff, executor; 10th June, 1884.
14. John Frey; Stephen Turnbach, executor; 10th June, 1884.
15. Elizabeth B. Hansam; Christian Lange and Jacob Hansam, executors; 11th June, 1884.
16. Ellen McMahon; William Stoddart, executor; 11th June, 1884.
17. Amzi Wilson; Louisa Wilson (now deceased) and Dilton Yarington, executrix and executor; 11th June, 1884.
18. Samuel Moyer; Homer Smethers, administrator; 12th June, 1884.
19. Charles Moyer; Homer Smethers, administrator; 12th June, 1884.

The accounts enumerated and designated in the above list will be audited by the court, in the Court House, in the Orphans' Court room, during the session of court on the days set forth opposite the name of each estate, at which time all persons interested shall attend, if they see fit, and present their claims against said estate, or forever thereafter be debarred from coming upon said fund.

JOSEPH HENDLER,
Clerk O. C.

17-19

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ZIBA MATTHERS,
a student at law in the office of Geo. B. Kulp, will apply at June term, 1884, for admission to practice as an attorney in the several courts of Luzerne county.
19-21

ESTATE OF PETER SCANLAN, LATE OF Wilkes-Barre, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to
PATRICK McGROARTY,
15-20 Wilkes-Barre, Pa.

ESTATE OF ELIAS HOYT, LATE OF KINGston township, deceased.
Letters of administration *cum testamento annexo* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to
ABRAM NESBIT,
H. B. PAYNE, Kingston, Pa.
Attorney. 15-20

ESTATE OF WILLIAM EASTWOOD, LATE of Hazle township, deceased.
Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are aequested to make payment, and those having claims or demands to present the same, without delay, to
WILLIAM W. DAVIS,
16-22 Stockton, Pa.

ESTATE OF ISAAC RICE, LATE OF KINGston township, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to
CLARENCE J. RICE,
ABRAM NESBITT,
15-23 Kingston, Pa.

ESTATE OF CELIA A. WEBBER, LATE OF Pleasant Valley, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to
JAMES WEBBER,
F. C. MOSIER, Marr, Pa.
Attorney. 16-21

ESTATE OF ELIZABETH BRIGGS, LATE OF Hollenback township, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to
J. F. BRIGGS,
M. E. WALKER, Shickshinny, Pa.
Attorney. 16-21

ESTATE OF WILLIAM H. THOMAS, LATE of Ashley, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to
CATHARINE THOMAS,
ANDREW HUNLOCK, Ashley, Pa.
Attorney. 18-23

ESTATE OF ELIZABETH GILCHRIST, LATE of Wilkes-Barre, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to
AGNES GILCHRIST,
ANNA C. GILCHRIST,
ISABELLA M. GILCHRIST,
GEO. H. FISHER, Wilkes-Barre, Pa.
Attorney. 15-20

ESTATE OF MARY ANN HILL, LATE OF Salem township, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to
F. E. BROCKWAY,
A. K. OSWALD, Beach Haven, Pa.
Attorney. 17-22

ESTATE OF NATHAN WHITNEY, LATE of Hunlock township, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to
MARY R. MATTHERS,
M. CANNON, Hunlock's Creek, Pa.
Attorney. 17-22

ESTATE OF HARRISON HEAVNER, LATE of Nescopeck township, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to
BENJAMIN EVANS,
C. B. JACKSON, Nescopeck, Pa.
Attorney. 19-24

ESTATE OF JACOB CEASE, LATE OF JACKson township, deceased.
Letters of administration, *de bonis non*, upon the above named estate having been granted to the undersigned, all persons having claims against the same will present them for payment, and those indebted thereto will please make immediate payment to
GEORGE W. SHONK,
20-25 Plymouth, Pa.

WIDOWS' APPRAISEMENTS.
Notice is hereby given to all persons concerned, that widows' appraisements in the following estates have been approved nisi by the Orphans' Court of Luzerne county, and, unless exceptions are filed, will be presented for final approval on Monday, the 2d day of June, 1884:
William Eastwood, John Kennedy, and Charles Kulp, deceased.
JOSEPH HENDLER,
20-22 Clerk O. C.

AUDITOR'S NOTICE.
The undersigned, an Auditor, appointed by the Court of Quarter Sessions of Luzerne county to marshal the indebtedness of the original School District of Buck township, and to apportion the same between the Buck Township School District, as now constituted, and the Lehigh School District, which is a portion of said original School District, hereby gives notice, that he will attend to the duties of his appointment, at his office, No. 5 South Franklin street, Wilkes-Barre, Pa., on Tuesday, the 27th day of May, A. D. 1884, at 10 o'clock A. M., at which time and place all parties having claims against said district are required to present them, and all parties interested are notified to appear.
F. C. STURGES,
17-20 Auditor.

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ESTATE OF BALTHAZAR LUCHSINGER, late of Pittston, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ANNA BURSCHEL,
Dunmore, Lack. Co., Pa.
SEBELLA ELTERICH,
ANTH. BAUMAN, Pittston, Luz. Co., Pa.
Attorney. 15-20

ESTATE OF HELEN A. BRYANT, LATE OF the Borough of Blakely, Lackawanna county, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

S. B. STURDEVANT,
18-23 Wilkes-Barre, Pa.

ESTATE OF CHARLES KULP, LATE OF Butler township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

FRANKLIN E. KULP,
FREDERICK REIFENBURG,
H. B. PAYNE, St. John P. O.
Attorney. 18-23

ESTATE OF MARTHA A. KIDDER, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

REV. C. H. KIDDER,
19-24 Wilkes-Barre, Pa.

ESTATE OF WILLIAM PEGG, LATE OF Hazleton, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE KISHBAUGH,
18-23 Hazleton, Pa.

CHAS. D. FOSTER,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

W. S. PARSONS,
ALDERMAN,
WILKES-BARRE, PA.

WILLIAM S. McLEAN,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

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Supreme Court of Pennsylvania.

McDERMOTT'S APPEAL.

1. The deposit of money arising from a husband's business, by the wife, in a bank in her own name, even though it be with the husband's knowledge, is not presumptively a gift of the money to her.

2. The wife's possession of such money in bank is the husband's possession, and is not of itself sufficient evidence of her ownership.

3. The fact that the account for such money is in her name is no evidence of her ownership.

Appeal from the Orphans' Court of Luzerne county.

The opinion of the court was delivered April 28, 1884, by

PAXSON, J.—The money in controversy was the money of the husband, and the fact that his wife helped him to earn it does not make any difference. It is settled by authority that the earnings of the wife belong to the husband save in certain exceptional cases specified in various acts of assembly. Unless, therefore, it can be shown that there was a gift of the money by the appellant to his wife, the decree of the court below cannot be sustained.

In the report of audit, the learned judge came to the conclusion that it was a gift, and in his opinion upon the exceptions says: "Was it a gift? Why not conclude that it was? What is there unreasonable about it?" We answer, that we cannot conclude it was a gift, because there was no evidence of it; and money which confessedly belongs to a man cannot be taken from him without evidence.

We do not differ from the learned judge as to any of the facts found, but we cannot concur in his deductions from those facts.

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The reasons upon which he based his conclusions may be summarized as follows: that the business was carried on at old place of business of the wife; that it was chiefly through her skill, industry, and economy, aided by her friends, that the money was acquired; that he had a special deposit of his own, and that she did not conceal from him the fact that she was keeping the particular deposit in question in her own name; that immediately after her death, he enquired for the savings bank book, and said to the daughter something about the money of right should belong to him; and lastly, assuming that he knew the fact of deposit in her own name, he could not have placed the fund more completely under her control and exclusive possession. Upon such weak and inconclusive facts as these, we are asked to hold that the appellant intended that the amount of this deposit, $4,840.73, by far the larger part of his estate, should become the absolute property of his wife, so as to be entirely beyond his control, and go to her next of kin in case of her death. There is no evidence that he knew of this deposit in his wife's name until after her death; there is evidence that he was an ignorant man, and could neither read nor write; that his wife was an active business woman, that she attended to the shop, kept the books, and did most of the bank business. Even had the fact been that the proceeds of the business were kept by his wife in her own name with his knowledge, it would afford no presumption under the circumstances that he intended an irrevocable gift to her of the money. Her possession of it was his possession as much so as if she had kept the money in a safe or a bureau instead of in the bank. It is a common thing in everyday experience for a woman to have the possession and control of her husband's money, and the husband of the wife's; and if, from such fact, we were to draw the conclusion that the custodian was the owner of the money, it would lead to unexpected results. But in this case there is no satisfactory evidence that he ever knew the deposit was in his wife's name; on the contrary, the presumptions are all the other way. And, as before observed, no matter how much the wife's aid may have contributed to make the money, that circumstance did not change the fact of its ownership, nor does it raise any presumption of a gift, while

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the claim he made when inquiring for the bank book tends to negative such presumption.

That the mere possession of money by the wife is not sufficient evidence of her ownership was settled by Parvin *v.* Capewell, 9 Wright, 89, where it was said: "A mere gift of money to a wife is not a settlement of it as her separate estate, for it may be for safe keeping and deposit, without any intention to divert the husband's title. And her possession of funds ordinarily implies no more than she is holding them for her husband." This is settled law, and is peculiarly applicable to this case. There is not a scintilla of proof of any intention of the appellant to make a gift of this money; nothing can be implied from the facts beyond a mere custody thereof on the part of the wife.

The cases cited by the learned judge do not sustain his conclusions. Herr's Appeal, 5 W. & S. 494, was a case in which there was strong evidence of a gift, and this conrt said: "But such gift must be established by clear and convincing proof, not only of the act of donation and delivery, but of her separate custody of it." The same doctrine is held in Tribner *v.* Abrahams, 11 Wright, 220. In Bachman *v.* Killinger, 5 P. F. S. 414, it was held that the possession by the wife of the husband's moneys, security, and property is very slight evidence of the transfer of the ownership, and his possession of her chattels ought to be considered still less evidence of title in him. In Crawford's Appeal, 11 P. F. S. 52, the husband informed his wife that he had added $3000 to her money; he directed his clerk to credit her on his books with the $3000 as cash received from her, and it was done. He credited her regularly with the interest on that sum in connection with the other sums belonging to her until his death. *Held*, that this was an executed gift followed by an express trust for his wife, and payable to her from his estate, but that it could not be supported as a debt. In addition, it appeared that the husband had that amount of his wife's money in his possession. Here, there was a plain intent to make a gift, followed by a positive unequivocal act. But where there is a mere permissive act, such as to allow the wife to be a custodian of his money, I know of no case in which it has been held that a gift can be implied from such act.

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We need not pursue the subject further. We can see nothing in the case from which a gift of this money by the husband to the wife can be reasonably implied.

The money appears to have been received by the administrator from the cashier with the understanding that the question of ownership should be settled in the Orphans' Court upon distribution. There also appears to be a proceeding pending in the Orphans' Court to strike this item from the administration account. As the money has actually gone into the estate of the wife, we may treat the appellant as her creditor; and to prevent circuity of action, we have concluded to dispose of the main question upon this appeal.

The decree is reversed at the costs of the appellees; and it is ordered that the deposit, less the amount due the attaching creditors, be paid to appellant.

Q. A. Gates, for appellant.

H. W. Palmer and John Lynch, *contra.*

See McDermott *v.* Miners Savings Bank of Pittston, 2 Kulp, 170.

Rufus James Bell was born September 9, 1829, at Troy, N. Y. He was educated at Burr Seminary, Manchester, Vt., at William's College, Williamstown, Mass., and at Harvard Law School, Cambridge, Mass., where he graduated in 1852. He was admitted to practice at Albany, N. Y., in 1853, and until his removal to Wilkes-Barre in 1864, practiced in the city of New York. Mr. Bell is of New England descent, his grandfather, Jonathan Bell, as also his father, Ebenezer Bell, being natives of Stamford, Conn. His father removed to Troy, N. Y., and was a prominent merchant in that city. Mr. Bell was admitted to the bar of Luzerne county, September 27, 1864. He married April 25, 1860, Mary Catharine, daughter of the late O. B. Hillard, of this city. The fruits of this union are three children; Oliver Hillard Bell, Mary Conyngham Bell, and Emma Gertrude Bell.

Mr. Bell is well known throughout Luzerne county, more, however, as a writer than as a practicing attorney. He was the

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first clerk to the upper end mine inspectors under the ventilation law and its supplements, and from the time of his appointment to that position has always been more or less actively identified with the labor movement in the county, of which the miners, constituting the most numerous branch of our workmen, have been at once the substance and the subject. During the years 1877 to '79, when the labor movement, having united with the greenbackers, so-called, in the formation of an independent party, played so important a part in our local and state politics, Mr. Bell served constantly on the party committees and as an editorial writer on their official organ, the *Reformer*. He is a writer of much force and fluency, and being radical in his convictions and enthusiastic by nature, indited, during the pendency of the power of the greenback-labor party, as it was named, many very eloquent appeals to its followers, and many very bitter excoriations of the systems it antagonized. He was by odds the best of all the *quill-wielders*, so to speak, of the organization named, and the mainstay of their paper. Before connecting himself with the new party Mr. Bell had been a democrat (and is still one) and a frequent contributor to the *Luzerne Union*, under the management of Beardslee & Co. He has not for some years been in active practice in his profession.

George Shoemaker was born June 28, 1844, at Forty Fort, Luzerne county, Pa., where he now resides. His father was George Shoemaker, long a well known resident of Luzerne county, and a brother of Lazarus Denison Shoemaker, of the Luzerne county bar. The mother of George Shoemaker, Jr, was Rebecca, daughter of John Jones, of Berwick, Pa.

Mr. Shoemaker was educated at the Wyoming Seminary, Kingston, Pa., and at the High School, Freehold, N. J. He studied law with his uncle, L. D. Shoemaker, and was admitted to the bar of Luzerne county, January 6, 1865. He is now extensively engaged in agricultural pursuits and in the raising and sale of stock.

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On October 10, 1873, Mr. Shoemaker was married to Ann E., daughter of John D. Hoyt, of Kingston. They have no children.

In a series of biographies of members of the legal profession, it is difficult to say much of one, who, though educated to the law and passing a creditable examination as to its principles, has never practiced. Mr. Shoemaker is a gentleman of quiet and unobtrusive demeanor, who, probably, would not have achieved much distinction as a pleader; but his correct business habits and his successful adventures in the financial and industrial world forbid the belief that, had he entered upon a practitioner's career, his advice would have been otherwise than safe and shrewd, and, as a consequence, largely sought and liberally compensated. He did not need, however, to burden himself with its trials and troubles. His inclinations led him to agriculture, and in that and incidental fields of labor he has found ample and genial occupation for the active mind and physical vigor with which he has been by nature endowed. He is a good citizen, well read, and an enjoyable companion.

James Mahon was born March 17, 1837, at Carbondale, Luzerne (now Lackawanna) county, Pa. He was educated in the public schools of his native state, and admitted to the bar of Luzerne county, January 6, 1865. In 1866 Mr. Mahon was elected district attorney of the Mayor's Court of Scranton, The term was for three years. In 1876 Mr. Mahon was the democratic candidate for state senator in the Twentieth senatorial district, but was defeated by George B. Seamans, the republican candidate. Patrick Mahon, the father of the subject of our sketch, is a native of Kilbride, Mayo county, Ireland. He emigrated to America in 1829, when twenty-eight years of age, and is now a resident of Shamokin, Pa. The mother of James Mahon is Catharine, daughter of Michael Kelly, also of Kilbride, Ireland. Mr. and Mrs. Mahon were married previous to their arrival in this country. Peter Mahon, of Shamokin, a member of the Northumberland county bar, and district attorney of that county, is a brother of James Mahon.

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Mr. Mahon married May 25, 1866, Margaret Ann Heffron, a native of the city of New York. She was the daughter of Patrick Heffron, a native of County Mayo, Ireland. Mr. and Mrs. Mahon have a family of three children living, one son, Anthony, and two daughters.

James Mahon's tall form and well cut features are familiar to all habitues of the courts of Luzerne county. He looks older than he is, having been more or less afflicted by illness during a number of years, though he is now enjoying comparatively fair health. He has many of the attributes upon which great political popularity is frequently builded, as is attested by his election to the district attorneyship of Scranton, and by the fact that all who know him have a kind word to say in his behalf. Although his education was only such as the public schools afforded, yet he is an industrious and apt student of the theories of the law and of the statutes; and having always been an extensive reader of both legal and general literature, he has acquired a stock of information to which many a client has found occasion to be thankful. He is a conscientious adviser, too, who would rather lose a fee than dupe a client. His practice, perhaps, on this account, might otherwise be larger.

The family name of Lamberton is of pure Scottish origin, and, like all of the ancient surnames of Scotland, territorial in its derivation and associated with the earliest historic times of that country. Dr. Gordon, in his Ecclesiastical Chronicles of Scotland, says "it was a family of some note in the south of Scotland; an ancient lowland name." Frequent mention is made of the De Lambertons, chiefly in Berwickshire, where their estates principally lay, as well as in Ayrshire. The name occurs, he states, as early as the reign of Edgar (1097–1107), in a charter granted by him to the monks of St. Cuthbert, and subsequently in other grants.

To the letter sent by the Scottish barons to the Pope in 1320, the seal of Alexander de Lamberton is appended; its bearings

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corresponding so far with those of Bishop de Lamberton, being three escallop shells reversed.

John de Lamberton, the son of Richard de Lamberton, bound himself to pay twelve boles of wheat to King Edward of England, and his bond is extant in the public record office. This same John de Lamberton appears on the roll of Scottish nobles and others invited to accompany King Edward into Flanders, May 24, 1297. This roll comprises some of the first names now existing in Scotland and the border country.

John de Lamberton was sheriff of Sterling 1263, 1265, and 1266, in the reign of Alexander III., but whether this is the same John de Lamberton is not known. It is also said that various persons of the name signed the famous Ragmans' Roll.

In 1336 Robert de Lamberton grants a charter of his lands of Eyton, Eymouth, Coldingham, and Flemington to William Stute, of Berwick, and seals it with his seal.

The ruins of the chapel of Lamberton are still extant about three miles north from Berwick, in the parish of Mordington. Within this chapel, in 1502, Margaret, eldest daughter of Henry VII. of England, was espoused to James IV.

In the reign of Robert I., William Lamberton, bishop of St. Andrews, in consequence of the severity of the times, granted to the monks of Kelso power to apply to themselves certain revenues of the church; and in a papal taxation of Coldingham and its dependent chapels, of the fifteenth century, the moiety due from the "Ecclesia de Lambertone" is specifically set down.

Perhaps the most famous one of the name in early historic times was William de Lamberton, bishop of St. Andrews from A. D. 1298 to 1328. He was chancellor of Glasgow in 1292, and in the charter was called William de Lambyrton. He was elected bishop in September, 1297, and was by Pope Boniface VIII., on June 17, 1298, preferred to the episcopate of St. Andrews, and is in the papal rescript styled "Willelmo de Lamberton." Gordon says "Lamberton was indebted for his nomination partly to his friend, Sir William Wallace, whose influence in Scotland at that juncture was almost unbounded. He passed the first years of his episcopate in France as the representative of Wallace. His name is to be met with in many ancient writs and charters.

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He strenuously opposed the encroachments made by King Edward I. of England upon the constitution of Scotland, and contributed his hearty endeavors to set and keep King Robert the Bruce upon the Scottish throne.

Lamberton, along with Wishart, of Glasgow, and David, of Murray, were the three bishops who crowned Bruce as king, at Scone, on March 27, 1306. For this Lamberton and Wishart were made prisoners and conveyed in fetters to England. He was afterwards liberated, and the next year presided at an assembly of his clergy at Dundee, asserting in the strongest terms Robert the Bruce's right to the crown of Scotland. He completed the cathedral of St. Andrews, which had been one hundred and fifty-eight years in building, and had it consecrated in the presence of King Robert the Bruce, and of the clergy and most of the knights and barons of the kingdom. It was, in 1559, demolished in one day by a mob excited by a sermon of John Knox. In 1324, at York, he was one of the commissioners of Scotland for endeavoring to effect a peace between it and England.

Burton, in his history of Scotland, says, "while he was in power indeed, Wallace kept a sort of ambassador in France in William Lamberton, bishop of St. Andrews. Lamberton was, in fact, his own bishop. When the See became vacant William Comyn was the candidate favored by King Edward, who, in an ecclesiastical process at the Vatican, and other charges, set forth that the bishop had gone to France, where he advocated the cause of the rebellious Scots and excited the traitor Wallace by prospects of French aid. After the death of Red Comyn at the hands of Bruce, the bishop of St. Andrews, assisted by Wishart and Murray, crowned Robert de Bruce King of Scotland.

"Among the illustrious captives were two great prelates, Lamberton, of St. Andrews, and Wishart, of Glasgow. None had been so versatile and so indefatigable in stirring up the people, and no laymen had broken so many oaths of allegiance to Edward; yet he was content to imprison them, afraid to dip his hands in clerical blood. We have seen that Lamberton, bishop of St. Andrews, was a zealous partaker with Wallace in his struggle for the purely national party. Whether it was the bishop's

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advice or not, Bruce met him in the Abbey of Cambus Kenneth, the scene of Wallace's great victory in June, 1304, and there the two entered into a league with each other, which was put in writing and sealed and authenticated by all the solemn rites of the period. It is the earliest existing specimen of a kind of document which we shall frequently meet with afterward. There are no engagements as to any distinct course of action, but the two bound themselves to general co-operation. Having discussed possible future perils, they resolve to aid and comfort each other when these come to pass. They are to stand by each other against all enemies. If either learns of any danger to the other, immediate warning is to be sent and co-operation in averting it, is the most material clause, perhaps, of all. Neither is to undertake any serious affair without taking counsel of the other. They bind themselves to this obligation by solemn oath; at the same time, as in any such modern contract for the supply of goods as a court of law would give effect to, either party failing to keep the engagement, is to be subject to a pecuniary penalty. It is fixed at £10,000. The purpose it was to be put to, when secured, takes us back from the attorneys' style book to the age and its conditions. The money was to be applied for the recovery of the Holy Land, and be dropped into the great fund lost in the crusades." This document is given at length by Sir Francis Palgrave.

Subsequent events showed that Lamberton represented the feelings of the churchmen who had their own independence to protect.

"Then the allegiance of the church to Bruce meant a great deal more than spiritual or ecclesiastical support, important as that might be. The religious houses held large baronies, and could call out a great population, probably not much less than a third of the fighting men of the country." *Burton, Vol. II., p. 238*

Bruce in his deadly quarrel with Comyn charged him with betraying certain secrets of his. Burton says probably the bond with Lamberton.

After the defeat of Wallace at Falkirk by the English under Edward I., in 1298, Lamberton, the elder Bruce, and John Comyn were appointed Regents of Scotland.

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Lamberton, according to Wynton, died "in the Priors' chamber of the Abbey in June, 1328, and was buried on the north half of the High Kirk;" i. e., on the north side of the High Altar, but no vestige can be traced.

From earliest times the family of Lamberton have lived in Ayshire, Scotland, near the barony of Lambrochton, and in and near the village of Kilmaurs, in that shire. Some have thought that the name, being territorial, might have originated from the barony above named. But though the names are introconvertible, and in the burial ground of the parish church of Kilmaurs may be seen a headstone with the two names of the same kinspeople on it, this origin is not probable. The barony of Lambrochton never belonged to any of that name, or of the name of Lamberton, but was in earliest times the estate of the de Morevilles, de Ferrars, and the de la Zuches and their descendants, who were partisans of Baloil in his contention for the Scottish crown. On the accession of Bruce these estates were confiscated and granted to his adherents, the Cunynghames, Earls of Glencairn, who possessed them until the sixteenth century, when they passed to the Montgomerys, Earls of Eglington.

Besides, at and before the time of the grant by Bruce, the name of Lamberton was pure and distinct and well known, for William de Lamberton, the bishop of St. Andrews, was then the friend of Bruce and Wallace.

Only by tradition can the family name be traced through the long period intervening between the time of Bruce and the time of the anti-prelacy agitation in the latter part of the seventeenth century. During this latter period the tradition is distinct and well defined that in consequence of the religious persecution some members of the family fled to the north of Ireland, clearly indicating the affinity between the two branches of the family in Scotland and Ireland.

"The times of the religious persecution," mentioned both in Ulster and Ayrshire as a descriptive term, and which drove so many of the Covenanters to Ireland, must have been after the attempt of Charles II. to revive Episcopacy in Scotland in 1661, and after the defeat of the Covenanters on the Pentland hills in 1666, and at Bothwell Bridge June 22, 1679, and during the dragonnades of Claverhouse, which followed.

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General James Lamberton, the grandfather of Charles Lytle Lamberton, the subject of our sketch, was born near Londonderry, in the province of Ulster, according to the statement of one of his daughters, now deceased, in the year 1755, and by another account some four years earlier. He was the son of Robert Lamberton, who lived at Oughill, four miles from Londonderry, and who was a prosperous cloth merchant. His mother's name was Finley. Robert had one brother, James, and another whose name is not now known. He died at about the age of eighty. A generation or two preceding him his ancestor, with two brothers, fled from Scotland in consequence of the religious persecution there and sought refuge among the Presbyterians of Ulster; one of the brothers settling in county Antrim, and the other two in the adjoining county of Derry. The family tradition in the latter county is that they came from a place called "Lambrochton," and "that the family there are of the original stock from which they have sprung," which, as we have already stated, is a barony of that name near the village of Kilmaurs, in Ayrshire. From the shores of Antrim and Derry, which look out upon the north Atlantic, the Highlands of Scotland are distinctly visible in the distance, and the crossing could easily be made in a day or night by an ordinary fishing smack. The family traditional history is that the grandmother of James Lamberton was in Londonderry during the siege in 1689, at which time this branch of the family must have been in Ulster.

General Davis, in his History of Bucks County, Pa., says: "The third race to arrive [in Pennsylvania] was the Scotch-Irish, as they are generally called, but properly Scotch, and not the offspring of the marriage of Gaelic and Celt. They were almost exclusively Presbyterians, the immigration of the Catholic Irish setting in at a later period. The Scotch-Irish began to arrive about 1716–18. Timid James Logan had the same fear of these immigrants that he had of the Germans. They came in such numbers about 1729 that he said it looked as if 'Ireland is to send all her inhabitants to this province,' and feared they would make themselves masters of it. He charged them of possessing themselves of the Conestoga manor 'in an audacious and disorderly manner' in 1730. The twenty shillings head tax laid the year before

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had no effect to restrain them, and the stream flowed on in spite of unfriendly legislation. No wonder! It was an exodus from a land of oppression to one of civil and religious liberty.

"The Scotch-Irish have a history full of interest. In the sixteenth century the province of Ulster, in Ireland, which had nearly been depopulated during the Irish rebellions in the reign of Elizabeth, was peopled by immigrants from Scotland. The offer of land, and other inducements, soon drew a large population, distinguished for thrift and industry, across the narrow strait that separates the two countries. They were Presbyterians, and built their first church in the county of Antrim in 1613. The population was largely increased the next fifty years under the persecutions of Charles II. and James II. in their effort to establish the church of England over Scotland. There has been but little intermarriage between the Irish and these Scotch-Saxons, and the race is nearly as distinct as the day it settled in Ireland. In the course of time persecution followed these Scotch-Irish into the land of their exile, and after bearing it as long as it became men of spirit to bear, they resolved to seek new homes in America, where they hoped to find a free and open field for their industry and skill, and where there would be no interference with their religious belief.

"Their immigration commenced the first quarter of the last century. Six thousand arrived in 1729; and it is stated that, for several years prior to the middle of the century, twelve thousand came annually. A thousand families sailed from Belfast in 1736, and it is estimated that twenty-five thousand arrived between 1771 and 1773. Nearly the whole of them were Presbyterians, and they settled in Pennsylvania."

General Lamberton emigrated towards the close of the War of Independence and before the definitive treaty of peace, and settled in the Cumberland valley of Pennsylvania, amongst the Scotch-Irish Presbyterians who had preceded him there in such great numbers. It is also a tradition of the family that General Lamberton emigrated in the same ship with the father of the late President Buchanan. He arrived at Carlisle in the year 1783, before that having been for some time in Philadelphia, and for two years was in business with Major William Alexander, late a soldier of

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the Pennsylvania line, and a merchant of Carlisle; after which time he entered into business at Carlisle as a merchant on his own account, and for many years was one of the most successful merchants and business men of the Cumberland valley, sending across the passes of the Alleghenies, in packers' trains, goods to the west and southwest. On January 4, 1785, he was married to Jane McKeehen, a daughter of Alexander McKeehen—John George Butler, "minister of the gospel" at Carlisle, officiating. She died September 1, 1812, aged fifty-six years.

Alexander McKeehen was a north of Ireland immigrant. It is not known when he came to the Kitochtinny or Cumberland valley, but he was probably one of the earliest settlers who immigrated between 1730, 1740 and 1750, after which time for a whole generation there were no settlers of any other nationality. The majority of the settlers were men of means, intelligent and self-asserting. About 1784–85 we find Alexander McKeehen with General John Armstrong, Sr., who had emigrated before 1748, and others of the well known names of Alexander, Blair, Craighead, Creigh, Duncan, McClure, Grier, Denny, Lyon, Wray, Stuart, and many more familiar names of the early settlers, who were members of Rev. George Duffield's congregation, subscribing £414 to finish the Presbyterian church at Carlisle, which had been commenced in 1757. Mr. Duffield had been pastor of the church for twelve or thirteen years before 1772, when he received a call to Philadelphia, and afterwards became chaplain of the Continental Congress. Alexander McKeehen died sometime after December, 1804.

In 1792 the French National Convention met and established the republic, abolished the Bourbons and declared their fraternity with all people who desired to be free. Early in the following year war with England was declared. The sympathy of the democratic-republican party, led by Mr. Jefferson, then secretary of state, was strongly with the French people, who had been our powerful allies. The federal party, led by Mr. Hamilton, was denounced as "the British party." This feeling, coupled with an obnoxious scheme of internal taxation devised by Mr. Hamilton, then secretary of the treasury, led to unequaled bitterness between the political parties at that time formed and led

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by these two statesmen. It divided them everywhere and in everything. In Cumberland county Mr. Lamberton was a conspicuous leader of the democratic-republican party.

A new militia law was enacted in the year 1793 for the re-organization of the militia of the state. Under its provisions an election for field officers was being held at the court house in Carlisle on June 20, 1793. James Lamberton had been commissioned on February 19, 1793, as major of the first battalion of Cumberland county militia, to rank as such from July 28, 1792. At this election an altercation took place relative to the qualification of some of the voters between Major James Lamberton and Mr. John Duncan, merchant and a member of the federal party. He was a brother of Thomas Duncan, a prominent lawyer and afterwards one of the justices of the Supreme Court of Pennsylvania. Late on the evening of the 21st, Mr. Duncan, by his friend and brother-in-law, Joseph R. Postlethwait, sent Major Lamberton a hostile message, giving ten minutes for an answer. Major Lamberton shortly after, by his friend, Mr. John Wray, delivered a message of acceptance. They met the next morning on the commons in the suburbs. Mr. Duncan, with James Blaine as his second and accompanied by Mr. Postlethwait; Major Lamberton with Robert Huston as his second. Colonel Wray was also present. They fought with pistols. At the request of Major Lamberton, before the firing, they shook hands. At the first fire Mr. Duncan was killed.

James Blaine was the son of Colonel Ephriam Blaine, and the grandfather of Hon. James G. Blaine, of Maine. A singular incident of the sad affair is that Colonel Blaine married for his second wife the widow of John Duncan, deceased.

In 1795 James Lamberton was elected by the people of Cumberland county to the sixth house of representatives of Pennsylvania, which met on December 1, of that year. He was re-elected the following year to the seventh house of representatives which met on December 6, 1796. This was during the administration of Governor Mifflin, the first governor of the state under the constitution of 1790.

The legislature which assembled at Philadelphia in December, 1795, was a reform legislature, seeking to carry out the pro-

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visions of the constitution of 1790. Among the subjects before it for consideration were: Laws mitigating imprisonment for debt; for the establishment of "free schools;" for improving roads and inland navigation; giving to the courts further equitable powers; the revival of the laws relating to bankruptcy; concerning commercial paper and marine insurance; for regulating the general elections, and to prevent frauds therein; providing for election of electors for president and vice-president of the United States; laws regulating the militia of the commonwealth, and for giving aid to the Pennsylvania hospital; all of which measures received the support of Mr. Lamberton. He also voted in favor of the amendment to the constitution of the United States, proposed by the state of Virginia, "that no person holding the office of a judge under the United States should be capable of holding, at the same time, any other office or appointment whatever;" also, that a tribunal other than the senate be instituted for the trial of impeachment. He voted for the appropriation to Dickinson college. He supported the removal of the seat of government to Lancaster from Philadelphia, until a permanent capital be thereafter designated, and thus avoid the strong local influence of the proprietary interests at Philadelphia.

The legislature which assembled in 1796, of which James Lamberton was also a member from Cumberland county, had before them the general revision of the election laws; incorporating the laws relating to the state and federal elections into one system, and to make further provision to prevent frauds; laws for regulating the militia; for the establishment of public schools; for preserving records of the land office; laws concerning the territorial controversy at Wyoming; abolishing imprisonment for debt, and laws for the employment, relief, and support of the poor. In all of which legislation Mr. Lamberton took a conspicuous part. The returns of the re-election of Governor Mifflin were presented to this legislature. The entire vote of the state was, in round numbers, thirty-one thousand, of which Governor Mifflin received about thirty thousand, F. A. Muhlenburg and Anthony Wayne the remainder.

In January, 1804, Major James Lamberton was appointed and commissioned justice of the peace by Thomas McKean, governor

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of Pennsylvania. On October 28, 1811, he was commissioned brigade inspector, and as such mustered into the service of the United States the soldiers of the Cumberland valley, and accompanied some of them to the northern frontier at the time of the late war with Great Britain. On July 4, 1814, James Lamberton was appointed and commissioned brigade inspector of the First brigade of the Eleventh division, being for the county of Cumberland, for the term of seven years. On the first Monday of July, 1821, James Lamberton was elected and afterwards commissioned major-general of the Eleventh division, composed of the counties of Cumberland, Perry, and Franklin, for the term of seven years, being the first major-general elected under the act of 1821.

He had issue, Robert, Alexander, James, Christopher, Jane, and Esther. Alexander, James, and Esther died at Carlisle unmarried. Christopher married, and died near Baltimore without issue. Jane, intermarried with John Noble, died at Carlisle, leaving issue; and from Robert, Charles Lytle Lamberton is descended.

General Lamberton had brothers. Christopher, who had been educated in Scotland for the ministry, emigrated to America, read law with Judge Hamilton, at Carlisle, removed afterwards to the state of Ohio, where his descendents now are to be found. John emigrated to Venango county, Pa., where he died, leaving children. Huston and William never emigrated. Three sons of the latter, Robert, James, and William, emigrated to this country and settled in Venango county, Pa., where they became well known among the first citizens. Robert, as associate judge, merchant, and banker, has attained much prominence and great wealth, and has reared a large family, who are among the leading business men of the counties in which they live.

General Lamberton, on March 27, 1789, had deeded to him by Alexander McKeehen and wife, the house and lot on High street, Carlisle, No. 117, and formerly within the stockade of 1753. Here he lived during his life, carrying on a large and lucrative business, and here he died. For many years he had retired from active business pursuits, devoting his time to the cultivation of his farm lands in the vicinity of the town. He was tall in stature, straight as an arrow, active and alert in movement, careful in attire, and to the last retained the old fashion of wearing

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his hair in a cue. He had been well educated, was intelligent, quick and decided, brave and determined, and a born leader among men. He died July 28, 1846, at the ripe age of ninety-one years, without physical infirmity and his mental faculties unimpaired. A contemporary writing of him says: "Descended from an old Scotch family who removed from their own country to the sister kingdom of Ireland, he inherited the same fearlessness and determination so eminently characteristic of the Covenanters. He emigrated to this country before the close of the struggle which resulted in the freedom of the colonies, and from the time he became an American citizen he was ever found amongst those who firmly maintained the rights of the people. His upright character soon secured the respect of his fellow citizens, and he was placed in positions in which he was always true to his trust. Fearless in the expression of his sentiments, and as courageous in the defense of them, he was awed by no petty considerations of policy into silence, and though so long outliving the allotment of 'three score and ten,' he left a reputation unsullied by a dishonorable act."

Major Robert Lamberton, son of James, was born March 17, 1787, at Carlisle, was educated at Dickinson college, at that time under the charge of Rev. Dr. Davidson, and amongst others had for college mate James Buchanan, later president of the United States, between whom ever after were the strongest ties of friendship. He was a student at law preparing for admission to the Cumberland county bar when the late war with Great Britain was declared, at which time Major Robert Lamberton was appointed paymaster in the service of the United States for the Pennsylvania forces on the northern frontier. He accompanied the troops to the frontier and into Canada. The exposure incident to his service there brought on chronic rheumatism, which afflicted him through life and ultimately caused his death. On the cessation of hostilities Major Lamberton returned to Carlisle and engaged in mercantile pursuits, and later was appointed postmaster of Carlisle, which position he retained for many years.

April 20, 1815, by the Rev. H. R. Wilson, Robert Lamberton was married to Miss Mary Harkness, daughter of William Harkness, of Allen township, Cumberland county.

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William Harkness was born October 1, 1739, in the north of Ireland, and when quite a boy immigrated with his father, William Harkness, Sr., and settled among the Presbyterians of Donegal, in the county of Lancaster, Pennsylvania. He married, in 1771, Priscilla Lytle, of the same Scotch-Irish stock and living in the same settlement; a woman of great ability and energy of character. She was born in 1751.

After the close of the harrassing Indian wars (by the treaty of Colonel Boquet) which ravaged the Cumberland valley until 1764, William Harkness, Jr., bought of the proprietaries on August 1, 1766, land now in Allen township, in Cumberland county. The Indian titles having been extinguished and the boundary difficulties with the state of Maryland adjusted, the proprietary advertised that the office for the sale of lands west of the Susquehanna would be opened on August 1, 1766, the settlers prior to that holding their lands under license certificates. Judge Huston says the number of applications issued on that day was six hundred and sixty-nine. The application of William Harkness was number thirty-eight.

He and his neighboring settlers were often engaged in defending their homes from the savage enemy, and in the work of the harvest fields there and in the Sherman's valley, carried their rifles with them for the common defense. They were armed agriculturists. The name of William Harkness is found on the list of taxables of Cumberland county as early as 1753. The survey was on January 24, 1767, and patent issued subsequently.

The Presbyterian settlers of the Cumberland valley were among the first to actively assert the rights of the colonists in the struggle with Great Britain. As early as July, 1774, the "freeholders and freemen from the several townships met in the First Presbyterian church, at Carlisle," passed resolutions of sympathy with Boston; declared for non-importation from Britain; recommended a colonial congress; appointed deputies to it, and a committee of correspondence. In May, 1775, a county committee was organized. Three thousand men were associated, and five hundred were taken into pay to be armed, disciplined, and marched on the first emergency, and for this purpose they voluntarily taxed themselves for £27,000. And by August of

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the next year they had nine hundred men in the field and more ready to march. Some of the companies marched under the command of their pastors, and some of them were already with Washington before Boston, and one company of riflemen under Captain William Hendricks marched with Arnold to Quebec.

As early as May 28, 1776, the petition of the inhabitants of Cumberland valley was presented to the general assembly of the province in favor of separation and looking to independence.

William Harkness entered the colonial service as an ensign, and together with Mr. Lytle, his brother-in-law, was, amongst other conflicts, at Brandywine and Germantown. At the latter place Mr. Lytle was killed by his side.

After the war Mr. Harkness, by purchase, added to his property until he possessed a large estate of some seven hundred or eight hundred acres of the rich lands of the Cumberland valley. On it he erected a large stone dwelling house, among the first of that kind in the valley, and other buildings, and gave his time to agricultural and other business pursuits. Generous and open handed, his house was famous for its large hospitality. He cultivated his lands and welcomed his many guests with the help of his own servants.

In the registry of the last two hundred and ninety-seven slaves registered under the requirements of "An act to explain and amend an act entitled 'An act for the gradual abolition of slavery, &c., in Pennsylvania,'" passed the 1st day of March, 1780, among the records of Cumberland county, we find the well-known names of Armstrong, Buchanan, Butler, Carothers, Crawford, Clarke, Craighead, Bryson, Duncan, Blain, Dunlap, Irvine, Galbraith, Gibson and others, that William Harkness returns those born on his estate. Some who desired it he afterwards manumitted at the age of twenty-one, seven years before the time fixed by law, having previously sent them to school and in other ways given them preparation for self-dependence. For others he built on his estate, houses, where they and their children resided until the death of his son, William Harkness, February 20, 1851. At all times they were treated with the greatest kindness, and between them the utmost sympathy and affection existed.

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William Harkness died May 4, 1822. Priscilla Harkness, his wife, died October 31, 1831, and both lie buried in the old grave yard at Silver's Spring, alongside the church of the pioneers of the "lower settlement" beyond the Susquehanna, and of the founding of which the descendants of the early settlers, in the year 1883, celebrated its sesqui-centennial.

Major Lamberton died at Carlisle, August 9, 1852, aged sixty-five years. Mary Harkness Lamberton survived him many years. She was born in April, 1791, and died at Carlisle, December 28, 1780, in the ninetieth year of her age. In many respects she was a remarkable woman. For sixty-three years she had been a regular attendant and communicant of the First Presbyterian church of Carlisle. Tall and comely—of clear, prompt, and decided judgment, of great ability and energy—she permitted nothing to swerve her from the path of duty and the right. She devoted herself to the care and education of her children and to her life of Christian duty and example. No infirmity of age came upon her. Her physical activity and the humor and clearness of her bright mind remained with her until the last, when the beating pulse ceased in death.

She left surviving four sons and two daughters: Robert Alexander Lamberton, late a member of the Dauphin bar, now president of Lehigh university; Alfred John Lamberton, a prominent merchant of western Minnesota; Charles Lytle Lamberton; and Henry Wilson Lamberton, a banker and a leading business man of southern Minnesota and the present mayor of the city of Winona; and two daughters, Mrs. Mary Lamberton Paulding and Annie Graham Lamberton, who occupy the homestead at Carlisle. James Finley Lamberton, former prothonotary of Cumberland county and the father of Lieut. Commander B. P. Lamberton of the United States navy, and Colonel William Harkness Lamberton, late of the Venango county, Pa., bar, died before her, the latter leaving a son surviving him, W. R. Lamberton, a member of the bar of the city of New York.

Charles Lytle Lamberton was born on the 4th day of January, A. D. 1829. He was born, bred, and educated at Carlisle, Cumberland county, Pennsylvania. At the age of nineteen he commenced the study of the law under the tuition of his brother, Hon.

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Robert A. Lamberton, of Harrisburg, and during a portion of this time taught school in Cumberland county. He was admitted to the Dauphin county bar in August, 1850, but the death of an uncle, William Harkness, with whom Mr. Lamberton had been living, occurring, leaving a large estate to be settled, at the instance of the administrator, his kinsman Robert Bryson, he was induced to spend the greater part of one year assisting in the settlement of the estate. It was not until the summer of 1851 that he turned his thoughts toward the active duties and pursuits of his profession. In the fall of that year, accepting inducements held out to him, he removed to Brookville, Jefferson county, Pa., and associated himself in the practice of law with the late Hon. Samuel A. Purviance, of Butler, Pa., a member of the constitutional convention of 1838, afterwards member of congress, attorney general of Pennsylvania, and later member of the Pennsylvania constitutional convention of 1874. To the wise counsels and good influences and professional training of this distinguished man Mr. Lamberton believes himself indebted for much of his success at the bar and prosperity in life. In a remarkable degree he always manifested kindness and consideration for the younger members of the profession. He practised in a wide circuit, was a learned lawyer, genial gentleman, and competed and stood abreast with the foremost lawyers of his time and state. Among the younger members who practiced at the Jefferson county bar at this time were Silas M. Clark and Isaac G. Gordon, at present two of the justices of the supreme court of Pennsylvania.

Indeed the first jury case Mr. Lamberton tried was Cuddy *v.* Eldred township, a case of negligence against the supervisors for non-repair of roads, in which he had the present Judge Gordon for his legal opponent, and in which Mr. Lamberton was fortunate in getting a verdict for his client.

In the winter of 1851 and 1852, without any solicitation or even previous knowledge on his part, Governor Bigler appointed and commissioned him a member of his staff with the rank of lieutenant-colonel. In his profession he succeeded from the first. In the summer of 1853 Mr. Lamberton was offered a legal partnership by Hon. James Campbell, of Clarion, afterwards the president judge of the district (Clarion, Jefferson, Forest, Venango,

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and Mercer). Believing that the county of Clarion offered a better field for professional success, he accepted the offer and in the summer of that year removed to Clarion, where their firm took a leading and commanding position, with an extensive and lucrative business extending over the counties of Clarion, Jefferson, Armstrong, Venango, and Forest.

For seven years Mr. Lamberton was a close student of his profession, a diligent reader of history and English literature, and a vigorous and earnest practitioner. Belonging to the democratic party he took periodically an interest in his party politics, but without neglecting his profession. In 1856 he was elected a delegate to the democratic state convention, which for the first time sent a united delegation from Pennsylvania to a national convention, in the interests of James Buchanan for president. Subsequently he became a member of the democratic state committee, of which the late John W. Forney was chairman, who then made his famous campaign, carrying Pennsylvania for Mr. Buchanan.

Mr. Lamberton sympathised with the friends of Stephen A. Douglass in his effort to prevent the introduction of slavery into the territories, and when the Charleston convention which gave Judge Douglass a majority had adjourned in 1860, he called meetings and took the stump in behalf of instructing the delegates from his district to the national convention at its adjourned meeting at Baltimore, to vote for Stephen A. Douglass.

After the election of Abraham Lincoln the cotton states had determined to secede from the Union. South Carolina, on December 20, 1860, passed an ordinance of secession, and by February 1, 1861, she had been followed by Mississippi, Florida, Alabama, Georgia, Louisiana, and Texas. The drum-beat was heard all through the south, and early in February Jefferson Davis was elected president of the Confederate States, at Montgomery.

In this exigency ex-Chief Justice Lewis and other leading citizens united in a letter to the chairman of the democratic state committee of Pennsylvania, asking him and his committee to call a state democratic convention, to be held in the interest of a peaceable adjustment of the momentous questions dividing the country. The call was accordingly issued for a convention to meet at Harrisburg, on February 21, 1861, and to be composed

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of twice the number of delegates as there were senators and members of the house of representatives. This convention was intended to voice the unanimous sentiment of the democratic party of Pennsylvania in favor of the preservation of the Union under the constitution by peaceable measures of compromise before the final resort to arms. Mr. Lamberton was sent as a delegate by the county of Clarion to this convention. Three hundred and ninety-nine members responded to the call, embracing in their numbers the ablest and most thoughtful men of the party throughout the state. General Henry D. Foster, of Westmoreland, later the democratic candidate for governor, was unanimously called to preside, assisted by a large number of vice presidents and secretaries. A committee of forty-one, with General Henry D. Foster as chairman, was appointed to proceed to Washington and deliver a copy of the resolutions and proceedings to the president of the United States, the vice president, the senators and members of congress from Pennsylvania, and to the several members of the peace conference then in session. On that committee were the learned ex-Chief Justice Ellis Lewis; the venerable Josiah Randall, father of ex-Speaker Randall; ex-Mayor Vaux, of Philadelphia; General George W. Cass, of Allegheny; General Ephraim Banks, late auditor-general of the state; Judge John W. Maynard, of Lycoming; General A. L. Roumfort, of Dauphin; and Hon. Asa Packer, famous then for his business enterprise and more famous since as the founder of a great university for free education. The other members of the committee were, Hon. F. W. Hughes, of Schuylkill; James G. Campbell, of Butler; Judge P. C. Shannon, of Allegheny; W. H. Case, of Northumberland; C. W. Carrigan, John N. Hutchison, George Williams, and Thomas J. Roberts, of Philadelphia; Henry M. Miller, of Montgomery; Victor E. Piolett, of Bradford; Hon. John Creswell, of Blair; A. J. Dull, of Armstrong; Hon. Hugh M. North, of Lancaster; Hon. Robert E. Monaghan, of Chester; Ira C. Mitchell, of Centre; Hon. R. Bruce Petriken, of Huntingdon; General J. Y. James, of Warren; Charles L. Lamberton, of Clarion; Hon. Daniel Kaine, of Fayette; Hon. M. C. Trout, of Mercer; Hon. George H. Bucher, of Cumberland; Hon. J. L. Getz, of Berks; General William Patten, of Erie; Samuel Wetherell, of Northampton; R. A. McConnell, of

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Greene; John D. Roddy, of Somerset; Adam Ebaugh, of York; George W. Brewer, of Franklin; L. S. Coryell, of Bucks; Hon. Thomas Chalfant, of Montour; Hon. George Sanderson, of Lancaster; and Hon. Steuben Jenkins, of Luzerne.

On April 13, 1861, Fort Sumter surrendered to General Beauregard, and on April 15 President Lincoln issued his proclamation declaring a number of the states of the Union in rebellion and calling upon the states which had not seceded for seventy-five thousand men. On the receipt of the news at the town of Clarion a private meeting was held at the law office of Campbell & Lamberton, to consult what was best to be done. At the instance of Mr. Lamberton a public meeting was at once called. He prepared the resolutions and addressed it, taking the ground that the time for enlisting men to sustain the federal government had come and moved for the appointment of a permanent committee of enlistment. The committee was appointed and Mr. Lamberton was placed at the head of it. He and others held meetings in different parts of Clarion county, addressing the people in favor of enlisting troops to sustain the supremacy of the federal laws. Before long a company recruited from the hardy lumbermen of the Clarion river was ready to march under Captain William Lemon, which Mr. Lamberton accompanied to the camp at Pittsburgh. This was the first company recruited in the upper Allegheny valley. On April 28, 1861, Captain Lemon's company was mustered in and served throughout the war as Company H, thirty-seventh regiment. Captain Lemon was afterwards appointed lieutenant-colonel. So efficient had the work of the committee been that by the early days of September Clarion county, then with a voting population of about four thousand, had over ten companies, numbering over one thousand men, in the field; the president judge of the district and a graduate of West Point, Hon. John S. McCalmount, residing at Clarion, having resigned his office to command a regiment (Tenth Reserves, Thirty-Ninth Pennsylvania volunteers).

In the summer of 1861 Mr. Lamberton was presented by the democratic convention of Clarion county for the position of state senator by a large majority over all competitors combined. Later, in the district convention of the counties of Clarion, Jefferson,

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Elk, and Forest, he was nominated for senator on the first ballot. His republican opponent was the late Samuel M. Fox, of Foxburg, a large landholder and a wealthy and popular man. Although there was some division of sentiment regarding the war, Mr. Lamberton made no concealment of his views during the canvass. In reply to a letter from prominent citizens addressed to him, he, on September 13, 1861, in a public letter said: "It is well known to you, gentlemen, that until the commencement of hostilities between the general government and those now in armed rebellion, I was persistently for a peaceful arrangement, upon honorable terms, between the two sections of the country; but when hostile cannon thundered around Fort Sumter and caused the flag of our country, the symbol of its power and authority, to be lowered in defeat, and from an official source came the threat that a hostile flag should float over the capitol at Washington, I could not, and did not, hesitate how to *choose*; I was unmistakably on the side of the constitutional government of the country. The issue was plain; the government had either to overthrow them and execute the laws, or they would overthrow it and subvert the laws. Besides, gentlemen, in deciding that issue we are to solve the grand problem of man's capacity for self-government for all future time. Acting under the impulse of duty I gave public utterance to these sentiments in different parts of the country, and our democratic brethren, without stopping to enquire what party administered our government, gallantly vied with men of all parties as to who should do most for its preservation."

At the ensuing election in October Mr. Lamberton was elected from that district to the senate of Pennsylvania for the years 1862, 1863, and 1864. The senate of Pennsylvania contained during this time many able men. William A. Wallace, late United States senator, Hiester Clymer, William Hopkins, A. K. McClure, John P. Penny, Morrow B. Lowry, Benjamin Champneys, Winthrop W. Ketcham, George Landon, and many others; and the legislation during the pendency of the civil war was mostly concerning the engrossing topics of the time, and the debates were of a highly interesting, exciting, and often of an acrimonious character. Although the youngest member of the

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senate, Mr. Lamberton at once took an active and leading part in the legislation and debates, and at all times sustained the government in every proper measure for the support of the federal arms and the restoration of the union under the constitution.

At the election of United States senator during the session of 1863, Mr. Lamberton placed in nomination Hon. George W. Woodward, and, at his request, subsequently withdrew it, when he gave his support in caucus and in joint convention to Hon. Charles R. Buckalew.

Mr. Lamberton's three years in the senate comprehended the greater part of the war period, and were marked by the most exciting and important events in the history of the country. The conduct of men then occupying civil positions, especially those in the legislative halls of the state and nation, was almost as closely scrutinized as that of our officers in the field, and according as they acquitted themselves of their almost equally grave responsibilities will their characters and capacities be measured in history. To democrats thus situated they were especially trying years. The urgent necessities of a vigorous prosecution of the war were made to mask the rashest of appeals to demagoguery and fanaticism, and to excuse the most violent assaults upon the constitution and popular rights. Democrats placing themselves in antagonism to these wrongs, laid themselves constantly liable to be falsely adjudged guilty of sympathy with armed rebellion. The people were to a large extent blinded, excusably perhaps, by the excitements and dangers of the great national exigency. The lip service of the deep-designing but loud-professing hypocrite was frequently mistaken for patriotism and rewarded with unstinted plaudits and honors, while the really patriotic caution of those who saw in the necessities of the hour, none for departure from the wise inhibitions of the fundamental law, were as often looked upon as evidencing a treasonable lack of faith in, and fealty to, the union. It required true bravery in those days to sustain public men in devotion to the constitution and democratic teachings; the favor of the masses could be so cheaply bought by departure from them.

Mr. Lamberton, as we have seen, was first for a peaceful adjustment, by compromise and conciliation, of the grave issues

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then pending. When the firing on the flag at Sumter rendered this impossible, he was for war; not to subjugate, but to re-unite. His speeches and votes in the senate of the state all conformed to the belief that "the union and the constitution were one and inseparable," and that to save the first in a condition worth saving the other must be religiously preserved. He supported every measure looking to a proper prosecution of the war and the doing by Pennsylvania of its full share of that great work, as also all measures intended to secure to the soldiers proper compensation, full meed of praise, and all their rights as citizens. The Supreme Court of Pennsylvania having decided that the law granting the right of suffrage to the soldiers from the state in the field, and its exercise by them, was not in accordance with the organic law, he voted for an amendment to the constitution establishing the right. The currency at the time being greatly depreciated, he voted and spoke earnestly for resolutions requesting congress to pay the soldiers in coin or its equivalent. He voted to pay pensions to the widows and minor children of deceased soldiers, and favored the bringing home of the sick and wounded of the Pennsylvania quota for treatment in hospitals within the state. He offered a resolution instructing the finance committee to bring in a bill authorizing the governor to have struck and presented to General Meade a suitable medal in gold and such other suitable testimonial as should be agreed upon, for presentation to each other officer, non-commissioned officer and private, who had "wrought for this commonwealth deliverance from rebel invasion on the sanguinary and victorious field of Gettysburg." Mr. Johnson, of Lycoming, moved to amend this resolution by instructing the committee to "inquire into the expediency of such action." Mr. Lamberton spoke twice against this amendment, calling attention to his having himself introduced a bill to the same effect earlier in the session, which had been put to sleep in the committee on federal relations, and pleading eloquently that this doing of justice to brave men be not made a party question. The amendment, however, was adopted, and, as the committee never reported, the project fell. Subsequently General Meade, having said that he had a quarrel with the democracy of Pennsylvania because he had been told

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that they had refused to recognize the services of the Pennsylvania soldiers in resisting Lee's invasion of our state, had his mind disabused of that erroneous understanding by being shown this resolution and the proceedings had thereon.

At the beginning of the session of 1864 the democrats were placed in a false position on many questions affecting the soldier by a tie in the senate. The whole number of senators elected was thirty-three, of whom sixteen were democrats and seventeen republicans, but General Harry White, of Indiana, one of the seventeen, was a prisoner of war in Richmond at the time, and, of course, could not attend. Senator Penny, of Allegheny, who had been elected speaker at the close of the preceding session, insisted, contrary to all precedent, upon continuing in the speaker's chair. For six weeks there was a deadlock, when Mr. Penny, (a successor to General White having in the meantime been elected), resigned and broke it. During these six weeks it was the habit of the republicans to introduce measures affecting the war and the soldiers which the democrats, under other circumstances, would have unitedly supported, but which, as things were, they could not vote for without, as they believed, violating the sanctity of their oaths and establishing a dangerous precedent. They felt bound, as they read the law, to resist all affirmative legislation of any kind or character, so long as the republicans insisted upon retaining Mr. Penny as speaker, though they were without a majority of the senators present. During the debate which this peculiar situation of affairs provoked, Mr. Lamberton spoke at length and vigorously in defense of the democratic attitude, and promising that the democrats would "go farther than the republicans dared go in behalf of the brave soldiers, scarred and weather-beaten, standing as a living battlement between the rebels and our homes, if they would but remove, as they could, the blocks from the wheels of legislation and permit a lawful organization."

It is not out of place here to mention the fact that in the democratic district represented by Mr. Lamberton, three out of the five counties paid no bounties, and the fourth paid but a small amount, yet when the draft was made two of them were found to have more than their quota already in the field, while the

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whole district was short of its quota only one hundred and twenty-nine men. From Clarion county, if not from all, the soldiers in the field from this district gave a majority of their votes to the democratic candidate for president in the canvass of 1864.

At other times than during this deadlock Mr. Lamberton showed that, while earnestly in favor of the suppression of the rebellion, he was equally earnest for the maintenance of the reserved rights of the states and the inalienable rights of the people: *habeas corpus*, trial by jury, liberty of the press, freedom of speech, sanctity of personal liberty, and security of private property. On March 6, 1863, a resolution came up for consideration which tendered the use of the senate chamber to ex-President Andrew Johnson, then "military governor of Tennessee," and Governor Wright, of Indiana. An exciting debate ensued taking a wide range and involving the issues, purposes, and conduct of the war. Mr. Lamberton offered an amendment inviting General McClellan to visit the capital to address the legislature. This amendment he supported in a lengthy speech, which was subsequently reported in full in the Harrisburg *Patriot*, and highly commended in an editorial in the same issue of that paper. The speech was a powerful arraignment of the men who had perverted the war, as the democrats then believed, from an effort to preserve the union and constitution, to one for abolition and subjugation, and a grand tribute to the great soldier McClellan. It was interrupted by the radical Lowry, of Erie, who charged that it was a speech better fitted to be delivered in Richmond than in the senate of Pennsylvania. Mr. Lamberton retorted that he could well afford to be abused in such a cause by one who had counseled the payment of a premium for murder, whereupon Lowry, in fiery language, virtually repeated his notorious Pittsburgh harangue of two years previous, in which he said that if he were commander-in-chief he would "confiscate every rebel's property, whether upon two legs or four, and give to the slave who brought his master's scalp one hundred and sixty acres of his master's plantation."

Mr. Lamberton's votes on financial and economic questions seem always to have been measured by an undeviating loyalty

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to the best interests of the state and the soundest of general principles. He voted always to keep full faith with the public creditors, and maintain and preserve the fair fame of the state, by paying, as did Massachusetts, the interest on the public debt in specie or its equivalent, as provided by the laws under which the loans were negotiated. He was also with those senators who were against the scheme of the Pennsylvania railroad, by which that corporation finally confirmed the repeal of the tonnage taxes effected in the legislature of 1861, and, to use the language of Judge Black, "transferred to their own pockets an inconceivable sum justly due to the state," which, the judge continued, "was business rich to them and profitable beyond the dreams of avarice, while to the swindled taxpayers it was proportionately disastrous."

Examining Mr. Lamberton's senatorial record under the added light of the experiences which the intervening nearly quarter of a century has brought us, we are in justice compelled to the conclusion that it was a record true to the principles of the democratic party and evidencing an intelligent appreciation of the dangers, and patriotic devotion to the necessities, of the time.

In 1864 Mr. Lamberton represented his congressional district as a delegate to the democratic national convention, which nominated General George B. McClellan for president; over which another candidate for president subsequently, Horatio Seymour, presided, and of which another candidate afterwards, Samuel J. Tilden, was a member. Mr. Lamberton, at the expiration of his term, determined to retire from public life and devote himself to his profession and business. His law business having become scattered during his term in the senate, Mr. Lamberton determined to seek a wider and more lucrative field for professional pursuits, and selected Wilkes-Barre, Luzerne county, as his future home.

The winter of 1864–65 he spent in Philadelphia engaged in some real estate enterprises, and after the close of the war and in the fall of 1865 removed to Wilkes-Barre, where he was admitted a member of the Luzerne county bar, November 20, 1865, and opened a law office. In the summer of 1867 he visited Europe with the late Chief Justice George W. Woodward and

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other friends, making the regulation tour. During their absence Judge Woodward was elected to congress, the news of which they got from the pilot three hundred miles off Sandy Hook. Mr. Lamberton returned to his office and profession and steadily applied himself to the practice of law. In the winter of 1867–68 he became one of the originators of the Miners' Savings Bank, of Wilkes-Barre; was an original incorporator and for fifteen years was an active director, except for a short interval, when he was a director of the Wilkes-Barre Deposit and Savings Bank. The Miners' Savings Bank has become one of the most prosperous institutions of the city of Wilkes-Barre.

In 1868, at the earnest solicitation of the democratic state committee, he reluctantly took charge of the canvass in Luzerne county with such efficiency that, at the state election preceding the presidential election, there was cast a democratic majority in the county of over thirty-five hundred. In 1872 he was sent as delegate to the democratic state convention at Reading, and was one of the committee of thirty-three, who selected fourteen delegates-at-large to the constitutional convention. After thirteen were chosen, by a vigorous five minutes' speech he succeeded in having his friend, Hon. George W. Woodward, named for the fourteenth man, and then by resolution Judges Black and Woodward were placed at the head of the ticket.

Mr. Lamberton was chosen as a delegate to the democratic national convention which met at Baltimore in 1872, and was named as a member of the committee on credentials from Pennsylvania. In 1874 he took an active interest in the election of his friend, Hon. William A. Wallace, to the United States senate.

In 1876, at the invitation of the democratic state committee, Mr. Lamberton took the stump in Pennsylvania for the democratic candidates, Tilden and Hendricks, speaking at Allentown, Easton, Bethlehem, Lock Haven, Williamsport, Reading, and Carlisle. His speech at the latter place, urging peace and reconciliation as the true road to public prosperity, was reported and printed in the public papers of the day.

In 1877, without solicitation, the democratic county convention of Luzerne county presented his name for justice of the supreme court of Pennsylvania in the following terms: "*Resolved*, That

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the Hon. C. L. Lamberton, of Wilkes-Barre, is hereby recommended to the ensuing state democratic convention for the office of judge of the Supreme Court, and the delegates from this county are respectfully requested to use all honorable means to secure his nomination."

The *Luzerne Leader*, in a complimentary article, said truly, "this recommendation came without the knowledge of Mr. Lamberton and was probably as much of a surprise to him as it was gratifying." Throughout the state it was favorably received by the democratic press. But Mr. Lamberton was not a candidate for that or any other office, and when the state convention met, before the balloting commenced, Hon. W. S. Stenger, the president of the convention, read the following letter:

"WILKES-BARRE, August 21, 1877.

"*To the President of the Democratic State Convention:*

"SIR: The late democratic county convention of Luzerne unanimously presented my name as a candidate for the nomination for justice of the Supreme Court. This high compliment was unsolicited but is most gratefully appreciated. As the sentiments of the democratic party and the profession unmistakably point to a distinguished jurist in another part of the state, I beg leave to withdraw my name from your consideration. Thanking my friends throughout the state for the many expressions of their kindness towards me,

"I am, very respectfully, your obedient servant,

"CHARLES L. LAMBERTON."

It was well known to Mr. Lamberton's friends that he was not a candidate, but was warmly in favor of the nomination of his friend, Hon. John Trunkey, the nominee of the convention, and was giving him all the aid he could, which was well known and appreciated by Judge Trunkey, who wrote him on September 3, 1877: "Accept my acknowledgments for the friendly aid you gave in securing me the nomination, of which I have heard from several sources."

In May, 1878, in company with Mrs. Lamberton, he went to Europe, traveled through Great Britain, central and western Europe, spending the winter at Rome and in the south of France at Nice, returning in the spring of 1879. He did not resume the

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practice of law, and his last two cases in the supreme court he argued at the Luzerne county term for 1880, one, Honor *v.* Albrighton, Roberts & Co., an important case, involving for the first time the construction of the new mine ventilation law; and the other, Church's Appeal, litigation involving a large and valuable property and in which Mr. Lamberton had been of counsel for thirteen years.

In 1880 Mr. Lamberton took part in the presidential canvass, speaking in Philadelphia, Chester, Danville, Pottstown, and Altoona, upon invitation of the democratic state central committee, and with Senator William A. Wallace at Youngstown, Ohio, and at Sharon, Pennsylvania. His speech at Altoona was reported for the Harrisburg *Patriot*, and the state committee circulated a large edition of it as a campaign document, and the late Judge Black, both by letter and orally on more than one occasion, pronounced it the ablest speech of the campaign he had seen up to that time.

In 1881 Mr. Lamberton, accompanied by Mrs. Lamberton, returned to Europe, visiting Ireland, Scotland, Germany, and the valley of the Engadine, sailing for home in November of the same year; in 1882 traveled in this country, and in the summer of 1883 went abroad again, accompanied by Mrs. Lamberton, traveling through Holland, Denmark, Norway, Sweden, and Russia.

On September 28, 1863, by Rev. Dr. Hoes, Mr. Lamberton was married to Miss Anna De Witt, of Kingston, Ulster county, New York, daughter of Colonel Jacob Hasbrouck De Witt and Sarah Ann De Witt, both of whom are now deceased. Mr. and Mrs. Lamberton have no children.

From a memorial, published some years since, of Rev. Thomas De Witt, D. D., late of New York city, we extract * * * "De Witt is a very ancient name in Holland, and many men of note for wisdom and statesmanship, for boldness in war and fortitude in disaster, bore the honorable name. Macauley tells of John De Witt, the grand pensionary of the province of Holland, 'whose ability, firmness, and integrity raised him to unrivalled authority in its municipal councils.' Before his memorable death occurred one branch of the De Witt family had emigrated to America. 'Tjerck Claezen (thought to be a son of Nicholas)

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De Witt, who was born in 1620, came to New York in 1656.' An exact list of his descendants for nearly two hundred and fifty years may be found in the American *Genealogical Review* for December, 1874, edited by Mr. Charles Moore. The grandfather of Dr. De Witt (and of his brother, Colonel J. H. De Witt) was Egbert, the seventh child of Andries, and his father, Thomas, was the seventh son of Egbert. He had nine sons and but one daughter, Mary, his tenth and last child, who married, in 1756, General James Clinton, and was the mother of the distinguished statesman De Witt Clinton. Several of Egbert's sons were soldiers and officers in the revolutionary army. Thomas, the father of Dr. De Witt (and of Colonel De Witt), went in his early youth to join the American forces in Canada at the time of Wolfe's victory over the French and the surrender of Canada to the British. When the struggle to throw off the dominion of the mother country began, he at once entered the continental service, soon obtained a commission as captain (and was subsequently promoted), and did not lay down his arms until the close of the war. In 1775 he again went into Canada and was present in December of that year at the death of Montgomery, in the attack on Quebec. He was afterwards with Colonel Marinus Willet on the Mohawk, and at the siege of Fort Stanwix. In 1782 he married Miss Elsie Hasbrouck, a descendant of one of the old French Huguenot families, who, when persecuted for their Protestantism, had fled, first to Germany, afterwards to Holland, and finally emigrated to America about the middle of the seventeenth century."

From a biographical sketch of Colonel Jacob H. De Witt, in a recent history of Ulster county, we take the following: "The 'Geslachten von Dordrecht' in the Royal library at the Hague gives the descent of the De Witt family in an unbroken line from the year 1295 to September 8, 1639, (and the 'Wapen' book of the 'Seven Provinces' continues it until 1756)."

Some of the name, which was variously spelled Die Witte, De-Witte, De With, De Wit, de Witt, and finally De Witt, served under William the Silent and were zealous supporters of the revolted provinces against Spanish oppression. After the death of John of Barneveldt, Jacob De Witt succeeded to the high honors of "Land Advocate of Holland." His son Corne-

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lius, the burgomeister of Dordrecht, "at the head of a Dutch fleet, with a stout Dutch admiral (De Ruyter) to do his bidding," sailed up the Thames, burning the English ships and sending consternation into the very heart of London.

Another son, John De Witt, one of the most distinguished men in the history of the Netherlands, became grand pensionary of Holland during the period between the separation from Spain and the opening of the thirty years' war, a position which at that time required the most consummate ability and statesmanship. Under his guidance Holland became a power among the nations of Europe. Geddes, in his recent valuable work "The History of the Administration of John De Witt, Grand Pensionary of Holland," says of him that "he was a head and shoulders above nearly all the notable men of his time," and "one, moreover, on whose public virtue there is hardly a blemish or spot." Tjerck Claus de Witt left his native land about the year 1648 and settled on the banks of the Twaalskill, now Rondout creek, within the limits of the present city of Kingston, and became the progenitor of that branch of the family to which Mrs. Lamberton belongs. J. H. De Witt was born in Marbletown, Ulster county, New York, on October 2, 1784. While yet an infant his parents removed to Twaalskill, now called Wilbur. His father, Colonel Thomas De Witt, one of nine sons, commanded a regiment in the continental army and served through the whole period of the revolutionary war. The only daughter in this large family married General James Clinton, and became the mother of De Witt Clinton. Colonel Thomas De Witt left surviving him three sons, Jacob H., Reuben, and Thomas, and one daughter, Mary, who married Thomas Thorp. Reuben died unmarried in 1859. Thomas, the youngest son, entered the ministry and died in 1874, having been for many years senior pastor of the Collegiate Reformed church of New York. Jacob H. De Witt spent the whole of his long life in his native county and was prominently identified with its interests and its people. In 1812 he was adjutant of a regiment raised to prosecute the war with Great Britain, and subsequently received a commission as colonel. In 1810 he was elected by the Clintonian party to congress, where he took an active share in the great struggle preceding the Missouri compromise question. In

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1839, and again in 1847, he represented Ulster county in the state legislature. In 1823 Colonel De Witt married Sarah Ann Sleight, of Fishkill, Dutchess county, New York, a granddaughter of General Swartwout, who rendered distinguished service under Wolfe in the French war, and who subsequently fought in the war of independence.

"Colonel De Witt died in Kingston on January 30, 1857, in the seventy-third year of his age. He left surviving him his wife, who died in 1872, one son, John Sleight De Witt, and three daughters, Elsie, Mary, who married James S. Evans, a leading banker of Kingston, and Anna, who is the wife of Charles L. Lamberton, of Pennsylvania. In his public career Colonel De Witt exhibited those qualities of sturdy honesty and independence which descended to him from his Dutch ancestry, and in private life his gentle, kindly heart and old-fashioned courtesy endeared him to an ever-widening circle of friends."

In the same history, writing of Tjerck Claesen De Witt, the author says, "he was the kinsman of John De Witt and Cornelius De Witt, the two brothers who were so distinguished in Holland, the former for nineteen years having successfully administered its government—1652 to 1672." He says further that "Tjerck Claesen De Witt came to this country from Zunderland, Holland, prior to April 24, 1656, when he married Barber Andries in New Amsterdam. He was settled in Beverwyck, where he owned a house and lot which he exchanged with Madame De Hutter for two parcels of land in Esopus, containing one hundred and forty acres, September 1, 1660. In 1661 he was still possessed of a portion of his patrimonial estate in Holland, from which he received the rents." Having disposed of all his property in Albany, he took up his permanent residence in Esopus (Ulster county) in 1660. In November, 1661, he assisted in the erection of a parsonage. Besides those already mentioned amongst his other descendants was Hon. Simeon De Witt, surveyor general of the state of New York from 1784 to 1835. And Thomas De Witt and thirty other descendants of Tjerck Claesen De Witt, immediately after the battle of Lexington, with others of the men of Ulster signed the famous articles of association, "Shocked by the bloody scene now acting in Massachusetts Bay, do, in the

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most solemn manner, resolve never to become slaves, and do associate under all the ties of religion, honor, and love of country, to adopt, and to endeavor to carry into execution whatever measures may be recommended by the continental congress." During the war Ulster furnished three regiments for the continental army, among whom were many of the signers of these articles of association.

In his retirement from the activities of political and professional life Mr. Lamberton enjoys a comfortable income. He is not rich, or would not be so reckoned in Wall or Third street, but he has means sufficient to relieve him of all necessity for labor, and enable him to devote much of his time to travel in our own and foreign countries, in which recreation, as already stated, he very frequently indulges. His European tours and habits of observation have given him a rich fund of information concerning foreign customs and politics, which makes him a delightful conversationalist; and no man keeps closer watch of the drift of governmental matters in his own country, or is a better prepared or safer counselor touching the political possibilities or probabilities of the passing hour.

BOOK NOTICE.

FEDERAL DECISIONS. Cases argued and determined in the Supreme Circuit and District Courts of the United States, comprising the opinions of those courts from the time of their organization to the present date, etc. Arranged by William G. Myer. Two volumes, pp. 1649. St. Louis, Mo.: The Gilbert Book Co.

Of the making of judicial opinions there is no end, and of the printing of them in books for the enrichment? of publishers and reporters we seem to be only on the threshold. As year follows year their number increases by geometrical progression. There are, first, the periodicals which, to the unsettling of the law and the multiplication of difficulties in the way of its ascertainment,

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the combined business shrewdness of the profession insists on preserving; then come the regular official reports of courts of last resort; then the innumerable local and unofficial volumes sent forth by private enterprise; then the condensations, the compilations, the digests, the indices, each of which constitutes a numerous class, until at last no lawyer can hope to possess a so-called complete library. The consequence is that, when any series of reported decisions which claims to be a useful novelty in the method of its arrangement and compilation comes to hand, there is a strong presumption against it.

The series before us now seeking favor with lawyers will, we venture to predict it, triumphantly overcome every objection that can be suggested on general principles to books of this character. It combines the qualities of the official reports and those of an excellent digest admirably. It will, we may almost say, contain text-books on specific and important subjects so far as it is possible to make them from the material in all the reported decisions of the many federal courts. One of the best features of the work is that it does not scatter its energy over what the courts of thirty-eight states have said and unsaid, but strictly devotes itself to bringing within the reach of all these judicial tribunals, the adjudications of the highest court in the land, and of those courts which are created subordinate to it by congress. Who can say what benefits would not result if the decisions of the national court of last resort were as generally cited in every state as those of the state courts? There would immediately be introduced by such an innovation a tendency to homogeneity in place of the utter diversity and uncertainty that now prevails. Myer's Federal Decisions bid fair to bring about a step in that direction. The whole system of federal jurisprudence, as contained in now more than three hundred and fifty volumes of cases, will be reduced to the comparatively small number of thirty volumes, arranged, not chronologically, but by subjects alphabetically, and again subdivided into chapters according to the demands of the editor's very thorough analysis. Thus the enterprise puts within the reach of all, in an intelligent form, for a moderate price, a set of books that heretofore could not have been purchased for much less than $1500.

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The plan of the work can best be understood from a brief statement of its treatment of a particular subject. Let us take "Arbitration and Award," which comprises eighty pages. Under this there are four sub-titles, viz.: 1, In General; 2, Enforcing Agreement to Arbitrate; 3, The Award; and 4, The Umpire. Under the first head there is a full digest of cases, each placitum setting forth carefully the facts necessary to a comprehension of the case and the exact legal point decided. Along with this there is the case of Alexandria Canal Company *v.* Swan, 5 How. 83, fully reported; the elaborate opinion of Taney, C. J., is divided into paragraphs, and each paragraph in it is preceded by a laconic statement of the legal proposition discussed. Under the second sub-title two cases—in one an opinion by Grier, in the other by Story, both paragraphed—are fully reported. Under the sub-title "Award," in addition to the very complete digest, twenty cases are reported in full and paragraphed. Where, from necessity, a portion of an opinion does not bear directly on the subject under which the case is placed in the series, it is by a system of cross-references, easily connected, with an appropriate title. "Appeals and Writs of Error" consume 894 pages, and treat of appellate proceedings in every possible phase.

The typography, the paper, the binding, all combine to make a beautiful book; and its intrinsic merit will eventually find a place for the work in every legal library.

Raithby's edition of Vernon's reports. There is a famous dedication "with a double aspect," of this book to Lord Eldon, by the editor, who, after obtaining permission to dedicate it to him, and before the book was published, seeing his intended patron suddenly turned out of office, after some compliments to departing greatness, says, "but your felicity is that you contemplate in your successor (Lord Erskine) a person whose judgment will enable him to appreciate your merits, and whose talents have procured him a name among the eminent lawyers of his country."

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SHERIFF'S SALES.

Abstract of property to be sold by J. S. Oberrender, Sheriff of Luzerne county, on Saturday, June 7th, A. D. 1884, at 10 o'clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are numbered, to wit:

1

Suit of George N. Nagle, administrator of John Nagle, deceased, assigned to Henry H. Welles, now assigned to I. E. Ross and Mary Lockhart, administrators of James Lockhart, deceased, v. John Davis.

McLean & Gibbons, Att'ys.

All that lot of land in the city of Wilkes-Barre, beginning at the southerly corner of Main and Ash streets, thence southwesterly along Main street about 24 feet to land of Dennis McQuillan, thence along same southeasterly about 186 feet to a corner, thence northeasterly about 75 feet to said Ash street, thence northwesterly along same about 186 feet to the beginning, together with a 3-story brick house with store room, a frame barn, and outbuildings thereon.

The above-described property will be sold in four parcels as follows:

1. A parcel fronting upon Main street, being the corner of Main and Ash streets, and the lot upon which is the brick building above described, being 32 feet in front and rear, and 141 feet in depth.

2. A parcel adjoining said parcel 1, and also fronting upon Main street, being 24 feet in front and rear, and 141 feet in depth.

3. A parcel adjoining said parcel 2 on the one side and lands now of F. J. Helfrich on the other side, also fronting upon Main street, being 24 feet in front and rear, and 141 feet in depth.

4. A parcel upon Ash street, upon which is the barn above described, said parcel being 45 feet in front and rear, and 30 feet in depth.

2

Suit of Reuben Flickinger, assigned to Philip D. Yeich, v. G. W. Fritzinger. Powell, Att'y.

All that piece of land in the township of Butler, beginning at a stone corner at the edge of the Hazleton and Wilkes-Barre road, thence by land now or late of Reuben Yost, designated as lot No. 1, 25 6-10 perches to a stone corner, thence by land of Hartman Linderman 17 perches to a stone corner, thence by lot now or late of said Yost, and designated as lot No. 3, 33 5-10 perches to said public road, thence along said road 18½ perches, thence 1 perch to the place of beginning; containing about 3 acres and 18 perches, being lot No. 2 and part of lot No. 1; excepting and reserving about three-quarters of an acre of said lot sold to Thomas Fritzinger; all improved, with a large 2-story frame building now or late used as dwelling and saloon, large stable, well, and fruit trees thereon. 20-22

ORPHANS' COURT SALE.

Estate of Anna Elizabeth Meikrantz, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, in Hazleton borough, on Saturday, the 14th day of June, A. D. 1884, at one o'clock P. M.

All that lot of ground on the west side of Cedar street, in the borough of Hazleton, being the lots marked Nos. 4 and 5 of square No. 100 in the plan of said borough, beginning at a point on the west side of Cedar street 60 feet north of Tamarack street, thence northwardly along Cedar street 60 feet to a street, thence along said street westwardly 190 feet to a certain 20 feet wide alley, thence along said alley southwardly 60 feet to No. 3, thence eastwardly 190 feet to the place of beginning; containing 60 feet on Cedar street, and extending westwardly of that width in length or depth 190 feet to the alley aforesaid; all coal and other minerals excepted; improved, with a large 2-story frame building, a basement (occupied and used at present for hotel and dwelling purposes), a barn, fruit and ornamental trees, outbuildings, etc.

TERMS OF SALE.—$200 down on day of sale, balance on confirmation of sale and delivery of deed.

T. R. MARTIN,
Administrator.

ORPHANS' COURT SALE.

Estate of L. H. Steele, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, in the city of Wilkes-Barre, on Thursday, the 5th day of June, A. D. 1884, at 10 o'clock A. M.

A lot of land in the borough of Plymouth, beginning at a corner 50 feet from the southeast corner of the Presbyterian Church lot on the northwest side of Church street, thence 147 feet to a corner, thence along the adjoining tier of lots 50 feet to a corner, thence 147 feet to a corner, thence along Church street 50 feet to the place of beginning; containing 7350 square feet of surface or soil, be the same more or less; coal and other minerals reserved; having erected thereon a 2-story frame dwelling, and other improvements.

TERMS OF SALE.—$500 down, balance on confirmation of sale and delivery of deed.

S. A. STEELE,
Administratrix.
H. C. MAGEE,
Attorney. 20-22

ORPHANS' COURT SALE.

Estate of Adam Good (Gouth or Guth), dec'd. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, in the city of Wilkes-Barre, on Thursday, the 12th day of June, A. D. 1884, at 10 o'clock A. M. sharp,

The following real estate, situate on southerly side of Lehigh (formerly Main) street, beginning on Lehigh street, thence easterly 45 feet to Hickory street, thence along Hickory street 150 feet, thence in northerly direction parallel with Lehigh street 45 feet, thence 150 feet to the place of beginning.

TERMS OF SALE.—One-half cash on day of sale, balance on confirmation of sale and delivery of deed.

PETER GOOD,
Administrator.
S. M. RHONE,
Attorney. 20-22

ORPHANS' COURT SALE.

Estate of Benjamin J. Evans, deceased. In partition. By virtue of an order of the Orphans' Court of Luzerne county, the undersigned will expose to public sale, on the premises, on Wednesday, the 25th day of June, A. D. 1884, at 10 o'clock A. M.

All the surface or right of soil of all that lot of land in the borough of Pittston, county aforesaid, bounded and described as follows, to wit: Lot No. 43, on Railroad street, as per map in Pennsylvania Coal Company's office, said lot No. 43 being 50 feet in front on said Railroad street, and extending at right angles to said Railroad street 144 feet to an alley; containing 7200 square feet of land, more or less; with a 1½-story wood dwelling house and outbuildings thereon.

TERMS OF SALE.—One-half down on the day of sale, and balance on confirmation of sale.

JOHN RICHARDS,
Trustee.
WM. J. HUGHES,
Attorney. 21-23

ORPHANS' COURT SALE.

Estate of Mary Ann Hill, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, in the township of Salem, on Wednesday, the 25th day of June, A. D. 1884, at 10 o'clock A. M.

The following piece of land, in Beach Haven, Salem township, bounded on the north by the public road leading to Shickshinny, on the east by land of Thomas McGraw, on the south by the Delaware, Lackawanna and Western Railroad, on the west by land of C. H Smethers; containing about one-third of an acre, and having erected thereon a 2-story dwelling house, stable and outbuildings.

TERMS OF SALE.—$100 down on day of sale, 50 per cent. of balance on confirmation of sale and delivery of deed, and the balance with interest from confirmation in one year from the date of sale. Deferred payments to be secured by bond and mortgage on the premises.

FRANK E. BROCKWAY,
Administrator.
21-23

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ORPHANS' COURT SALE.

Estate of Ellen Taylor, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Store of Pennington & Moore, at Fairmount Springs, in Fairmount township, on Thursday, the 12th day of June, A. D. 1884, at 10 o'clock A. M. sharp,

The following real estate in said Fairmount township, beginning at a corner of Jacob Tight's land, thence by Calloway Harvey and Enos Horn 42 perches, thence west 30 perches, thence by land of Borner Miller heirs 50 perches, thence north 20 perches, thence by William Hirlinger 141 perches, thence south 20 perches, thence by land of Jacob Tight 106.05 perches to the place of beginning; containing 50 acres, more or less; about 30 acres cleared, balance timbered.

TERMS OF SALE.—One-third cash, one-third at confirmation and delivery of deed, balance six months from day of sale with interest. Deferred payment secured by bond and mortgage on premises. At option of purchaser, the whole may be paid on confirmation of sale and delivery of deed.

P. C. WADSWORTH,
S. M. RHONE, Trustee.
Attorney. 20-22

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Monday, the 2d day of June, 1884, at 10 o'clock A. M., under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, for the charter of an intended corporation, to be called "The Broadway Hall Association of the Borough of Nanticoke, Luzerne county, Pa.," the character and objects whereof are the maintenance and discipline of a military organization, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements.

GEO. B. KULP,
20-22 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Saturday, the 14th day of June, 1884, at 10 o'clock A. M., under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, for the charter of an intended corporation, to be called "Tabernacle Congregational Church of West Pittston," the character and object whereof are the worship of Almighty God according to the faith, doctrines, discipline, and usages of the Congregational Church in the United States of America, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements.

GEO. S. FERRIS,
21-23 Solicitor.

NOTICE IS HEREBY GIVEN, THAT CHAS. B. Staples, a member of the Monroe county bar, will apply for admission to practice as an attorney in the several courts of Luzerne county, at June term, 1884. 19-21

NOTICE IS HEREBY GIVEN, THAT JOHN McGeady has presented his petition for the benefit of the insolvent laws, and that the time for hearing said petition is fixed for the 24th day of May, 1884, at 10 o'clock A. M.

B. McMANUS,
19-21 Attorney for Petitioner.

NOTICE IS HEREBY GIVEN, THAT OWEN Callaghan has presented his petition for the benefit of the insolvent laws, and that the time for hearing said petition is fixed for the 2d day of June, 1884, at 10 o'clock A. M.

M. CANNON,
20-22 Attorney for Petitioner.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Abram Wilkoff, and that said license will be asked for in the court aforesaid, on Monday, June 16th, 1884, at 10 o'clock A. M.

P. H. CAMPBELL,
21-22 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Moses Sussman, and that said license will be asked for in the court aforesaid, on Monday, June 16th, 1884, at 10 o'clock A. M.

P. H. CAMPBELL,
21-22 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Bernhard Englander, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

Q. A. GATES,
21-22 Solicitor.

ESTATES TO BE AUDITED BY THE Orphans' Court of Luzerne county. Notice is hereby given that accounts have been filed and confirmed absolutely by the court in the following estates:

1. John M. Stackhouse; James Post, administrator; 3d June, 1884.
2. Job Kocher; Reuben Godshall, executor; 3d June, 1884.
3. Isabella Mitchell; Robert C. Mitchell, administrator; 4th June, 1884.
4. Samuel Hoyt; Abram Nesbitt, administrator; 4th June, 1884.
5. Charity Pringle; Jacob G. Pringle, administrator; 4th June, 1884.
6. Philip Houpt; L. H. Bennett, trustee; 5th June, 1884.
7. John Fairchild; John M. and Henry S. Fairchild, administrators; 5th June, 1884.
8. Aaron Thomas; Elizabeth Thomas (now dec'd) and Reuben Thomas, executrix and executor; 6th June, 1884.
9. Jacob Drum; Milton Drum, executor; 6th June, 1884.
10. Nathan Rabert; Francis Evans, administrator; 9th June, 1884.
11. John Henry; C. B. Jackson, administrator; 9th June, 1884.
12. George Brown; Reuben Swank, administrator; 10th June, 1884.
13. James Dolan; Philip McAniff, executor; 10th June, 1884.
14. John Frey; Stephen Turnbach, executor; 10th June, 1884.
15. Elizabeth B. Hansam; Christian Lange and Jacob Hansam, executors; 11th June, 1884.
16. Ellen McMahon; William Stoddart, executor; 11th June, 1884.
17. Amzi Wilson; Louisa Wilson (now deceased) and Dilton Yarington, executrix and executor; 11th June, 1884.
18. Samuel Moyer; Homer Smethers, administrator; 12th June, 1884.
19. Charles Moyer; Homer Smethers, administrator; 12th June, 1884.

The accounts enumerated and designated in the above list will be audited by the court, in the Court House, in the Orphans' Court room, during the session of court on the days set forth opposite the name of each estate, at which time all persons interested shall attend, if they see fit, and present their claims against said estate, or forever thereafter be debarred from coming upon said fund.

JOSEPH HENDLER,
20-22 Clerk O. C.

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ZIBA MATTHERS,
a student at law in the office of Geo. B. Kulp, will apply at June term, 1884, for admission to practice as an attorney in the several courts of Luzerne county.
19-21

ESTATE OF MARTIN KENNEDY, LATE OF Jenkins township, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to
JAMES O'DONNELL,
21-26 Pittston, Pa.

LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 229, November term, 1883. Libel in divorce a vinculo matrimonii. James A. Fleming v. Mary Fleming. To Mary Fleming—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoenas having failed on account of your absence. Returnable on Monday, June 2, A. D. 1884, at 10 o'clock A. M.
B. McMANUS,
20-21 Solicitor.

LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 138, January term, 1884. Libel in divorce a vinculo matrimonii. Euphemia McGuire v. John McGuire. To John McGuire—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoena having failed on account of your absence. Returnable on Monday, June 2, 1884, at 2 o'clock P.M.
M. E. WALKER,
21-22 Solicitor.

LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 776, October term, 1883. Libel in divorce a vinculo matrimonii. Hannah Tiffany, by her next friend, John Moore, v. Perry Tiffany. To Perry Tiffany—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoena having failed on account of your absence. Returnable on Monday, June 2, 1884, at 2 o'clock P. M.
E. D. NICHOLS,
21-22 Solicitor.

LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 309, January term, 1884. Libel in divorce a vinculo matrimonii. Diannah Yocum, by her next friend, Elisha Culver, v. James M. Yocum. The alias subpoena in the above case having been returned, "That the said James M. Yocum cannot be found in Luzerne county." You, the said James M. Yocum, respondent, are required to appear on Monday, October 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.
J. S. OBERRENDER,
M. E. WALKER, Sheriff.
Attorney. 20-23

LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 117, January term, 1884. Libel in divorce a vinculo matrimonii. Susan A. Snyder, by her next friend, A. Fischer, v. Hiram J. Snyder. The alias subpoena in the above case having been returned, "That the said Hiram J. Snyder cannot be found in Luzerne county." You, the said Hiram J. Snyder, respondent, are required to appear on Monday, October 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.
J. S. OBERRENDER,
21-24 Sheriff.

LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 46, February term, 1884. Libel in divorce a vinculo matrimonii. Susanna Hoch, by her next friend, Emanual Rogers, v. Stephen Hoch. The alias subpoena in the above case having been returned, "That the said Stephen Hoch cannot be found in Luzerne county." You, the said Stephen Hoch, respondent, are required to appear on Monday, October 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.
J. S. OBERRENDER,
H. HAKES, Sheriff.
Attorney. 20-23

WIDOWS' APPRAISEMENTS.
Notice is hereby given to all persons concerned, that widows' appraisements in the following estates have been approved nisi by the Orphans' Court of Luzerne county, and, unless exceptions are filed, will be presented for final approval on Monday, the 2d day of June, 1884:
William Eastwood, John Kennedy, and Charles Kulp, deceased.
JOSEPH HENDLER,
20-22 Clerk O. C.

ESTATE OF CELIA A. WEBBER, LATE OF Pleasant Valley, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to
JAMES WEBBER,
F. C. MOSIER, Marr, Pa.
Attorney. 16-21

ESTATE OF ELIZABETH BRIGGS, LATE OF Hollenback township, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to
J. F. BRIGGS,
M. E. WALKER, Shickshinny, Pa.
Attorney. 16-21

ESTATE OF WILLIAM EASTWOOD, LATE of Hazle township, deceased.
Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are aequested to make payment, and those having claims or demands to present the same, without delay, to
WILLIAM W. DAVIS,
16-22 Stockton, Pa.

ESTATE OF MARY ANN HILL, LATE OF Salem township, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to
F. E. BROCKWAY,
A. K. OSWALD, Beach Haven, Pa.
Attorney. 17-22

ESTATE OF NATHAN WHITNEY, LATE of Hunlock township, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to
MARY R. MATTHERS,
M. CANNON, Hunlock's Creek, Pa.
Attorney. 17-22

CHAS. D. FOSTER,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

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ESTATE OF ISAAC RICE, LATE OF KINGston township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CLARENCE J. RICE,
ABRAM NESBITT,
18-23 Kingston, Pa.

ESTATE OF WILLIAM H. THOMAS, LATE of Ashley, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE THOMAS,
ANDREW HUNLOCK, Ashley, Pa.
Attorney. 18-23

ESTATE OF WILLIAM PEGG, LATE OF Hazleton, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE KISHBAUGH,
18-23 Hazleton, Pa.

ESTATE OF HELEN A. BRYANT, LATE OF the Borough of Blakely, Lackawanna county, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

S. B. STURDEVANT,
18-23 Wilkes-Barre, Pa.

ESTATE OF CHARLES KULP, LATE OF Butler township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

FRANKLIN E. KULP,
FREDERICK REIFENBURG,
H. B. PAYNE, St. John P. O
Attorney. 18-23

ESTATE OF HARRISON HEAVNER, LATE of Nescopeck township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BENJAMIN EVANS,
C. B. JACKSON, Nescopeck, Pa.
Attorney. 19-24

ESTATE OF MARTHA A. KIDDER, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

REV. C. H. KIDDER,
19-24 Wilkes-Barre, Pa.

ESTATE OF JACOB CEASE, LATE OF JACKson township, deceased.

Letters of administration, *de bonis non*, upon the above named estate having been granted to the undersigned, all persons having claims against the same will present them for payment, and those indebted thereto will please make immediate payment to

GEORGE W. SHONK,
20-25 Plymouth, Pa.

W. S. PARSONS,
ALDERMAN,
WILKES-BARRE, PA.

WILLIAM S. McLEAN,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, MAY 30, 1884. NO. 22.

Supreme Court of Pennsylvania.

PETERS' APPEAL.

1. Stale claims against dead men's estates should not be encouraged.
2. After the lapse of twenty years, mortgages, judgments, recognizances, and all evidences of debt, are presumed to be paid.
3. Such presumption stands until rebutted, gathers strength as time advances, and cannot be overcome by proof, vague and uncertain.
4. Whether the presumption of payment is sufficiently rebutted is a question of law for the court.

Appeal from the Orphan's Court of Luzerne county.

The opinion of the court was delivered April 28, 1884, by

PAXSON, J.—Stale claims against dead men's estates should always be scrutinized, especially so where the claim might have been brought against the decedent in his lifetime, but has been delayed until death has sealed his lips, and placed it beyond the power of his legal representatives to defend with a full knowledge of the facts.

The claims, the allowance of which forms the subject of the two assignments of error, belong to this class. One of them was allowed to sleep for over thirty years, and the other for about twenty-five years, before any one was called upon for payment. The first claim was for the sum of $583.33, which, it was alleged, Mrs. Peters paid at the request of her husband and on his account in 1851. There was evidence that Mrs. Peters had this amount of money, and that she did pay Jacob Weiss and William Hess some money on account of notes they held against her husband. But as to the amount of the notes, or the amount Mrs. Peters paid at that time, there is not a word of testimony. It is true

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one witness speaks of an admission of decedent that he received something like $600 from his wife, but the admission was coupled with the further statement that the money was given to him by his wife to enable him to keep their home. The admission, taken as a whole, does not strengthen the appellee's case. This leaves the claim wholly uncertain in amount. The learned court below fixed it at $583.30. I have looked in vain through the evidence for anything which would lead to this result, but conceding its correctness, we are left without any finding in the "report of audit and distribution" as to the nature of this transaction. Was it intended as a loan of money by the wife to the husband, or as a gift? Upon this vital question of fact we are not enlightened. That the learned judge felt the strain of this part of the case is apparent from his opinion, in which he says: "Aside from the proof of actual payment of the husband's note by the wife, with her separate funds, the testimony consists almost entirely of statements made by this decedent to his neighbors since his wife's death, the substance of which leaves it in some doubt whether the first transaction was a gift, a loan, or an agreement that his heirs and his wife's heirs should share equally in their estates. The whole testimony, however, leaves no doubt of the decedent's indebtedness to the Fenstermacher heirs for something, and of his acknowledgment of the same, down to a short period before his death."

But one witness speaks of any acknowledgment by decedent of an indebtedness to the Fenstermacher heirs. This was Henry Gruver, who has borrowed money of decedent. When the latter called upon Gruver about this money, this is what occurred, according to Gruver's testimony: "He said by right he should not loan the money; that he had money; that by right he should take the money and pay off the Fenstermacher heirs, but then a couple of them had offended him, and he would put the money on interest." Of another interview the witness said: "About three years ago, John Peters got me to take him down to Black Creek, and in conversation he said he was getting old, and said that, if I could give him this money, he would pay off the Fenstermacher heirs. I asked him how much he owed them. He said he did not know how much. He said he owed them, and

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that if Mr. Peters had the money I owed he would try to settle with them."

This is indefinite. No amount is fixed, nor are the Fenstermacher heirs designated. It was fairly off-set by the decedent's declarations before referred to that his wife gave him the money to help pay for the farm and prevent its being taken from him.

We regard this evidence as insufficient to rebut the presumption of payment. After a lapse of twenty years, mortgages, judgments, and all evidences of debt, are presumed to be paid. Foulk *v.* Brown, 2 Watts, 209; and a recognizance in the Orphan's Court, Beule *v.* Kirk, 3 Norris, 415; and in less than twenty years, with circumstances, payment may be presumed. Hughes *v.* Hughes, 4 P. F. S. 240; Briggs' Appeal, 12 Norris, 485. After twenty years the law presumes that every debt is paid, no matter how solemn the instrument may be by which such debt is evidenced. And such presumption stands until rebutted. This presumption gathers strength as time advances, and it is not too much to say that, after thirty years, it ought not to be overcome by anything but clear proof. We are of opinion that the evidence in this case is too vague and uncertain to rebut the presumption after this great lapse of time. To the violence of the presumption must be added the unsatisfactory proof of the claim itself. That it is not more distinct may perhaps be owing to its antiquity, but that very fact should admonish us that claims of this venerable character can never be admitted without great peril to the estates of the dead. The fact must not be overlooked that there is not to be found in the case a trace of any claim by Mrs. Peters during her lifetime upon her husband for this money. It comes now from her personal representatives. Mrs. Peters died in 1855. Her husband, the decedent, died in 1881. It was not until two years after his death, some time in 1883, that letters of administration were taken out in the estate of Mrs. Peters. During all this time the decedent, or his estate, was solvent.

Whether the presumption of payment is sufficiently rebutted is a question of law for the court. Beule *v.* Kirk, *supra*. In holding, as we do in this case, that the presumption was not overcome, we do not overturn any of the findings of fact in the report of audit.

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The second claim is in no better position as respects the presumption. It is not as old as the first claim by several years, but it is quite old enough for the presumption of payment to attach, in the absence of stronger proof, to rebut it. Aside from this, it is at least doubtful whether it was not included in the first claim. There is no evidence that Mrs. Peters had at any time more than the sum of $583.30 as her separate estate. It is probable, therefore, that the $150 was a part of that sum. As both claims must be disallowed, any reference to this matter is unnecessary.

The decree is reversed at the costs of the appellees, and the record remitted, with instructions to make distribution in accordance with this opinion.

IN RE PRIVATE ROAD IN NESCOPECK TOWNSHIP.

1. Appeals from assessments of damages to the owner of property taken for public use, under the act of 13th June, 1874, must be entered within thirty days from the filing a report thereof in court, and not from the confirmation of the report.

2. The time when the report is filed is the time when the damages are ascertained. The thirty days allowed for the appeal must begin to run from that time.

For opinion of the court below, see 12 Luz. Leg. Reg. 358, 2 Kulp, 487.

Certiorari to the Quarter Sessions of the county of Luzerne.

THE COURT.—The court committed no error in holding the appeal was not taken in the time authorized by the statute. It provides the appeal may be taken "within thirty days from the ascertainment of the damages, or the filing a report thereof in court, pursuant to any general or special act, and not afterwards." The damages were ascertained by the viewers. The report thereof was filed in court on the 6th of December, 1882. The appeal was not taken until the 5th April, 1883. The fact that exceptions had been filed did not extend the time within which an appeal might be taken. It might have been taken at the same time the exceptions were filed. The act does not designate the time of the confirmation of the report as having any bearing on the time of appeal. Gwinner *v.* Lehigh and Delaware Gap Railroad Company, 5 P. F. Smith, 126.

Judgment affirmed.

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HERIFF'S SALES.

Abstract of property to be sold by J. S. Oberren-, Sheriff of Luzerne county, on Saturday, June 7th, D. 1884, at 10 o'clock A. M., at the Arbitration m, in the Court House, Wilkes-Barre, who will ceed with the different properties in the order in ch they are numbered, to wit:

1

it of George N. Nagle, administrator of John le, deceased, assigned to Henry H. Welles, now ed to I. E. Ross and Mary Lockhart, adm'rs rs of James Lockhart, deceased, v. John Davis.

McLean & Gibbons, Att'ys.

l that lot of land in the city of Wilkes-Barre, be- ing at the southerly corner of Main and Ash ts, thence southwesterly along Main street about et to land of Dennis McQuillan, thence along same ideasterly about 186 feet to a corner, thence north- erly about 75 feet to said Ash street, thence north- erly along same about 186 feet to the beginning, ther with a 3-story brick house with store room, a e barn, and outbuildings thereon.

he above-described property will be sold in four ots as follows:

A parcel fronting upon Main street, being the cor- of Main and Ash streets, and the lot upon which is brick building above described, being 32 feet in and rear, and 141 feet in depth.

A parcel adjoining said parcel 1, and also fronting Main street, being 24 feet in front and rear, and feet in depth.

A parcel adjoining said parcel 2 on the one side lands now of F. J. Helfrich on the other side, also ng upon Main street, being 24 feet in front and , and 141 feet in depth.

A parcel upon Ash street, upon which is the barn e described, said parcel being 45 feet in front and , and 30 feet in depth.

2

it of Reuben Flickinger, assigned to Philip D. , v. G. W. Fritzinger. Powell, Att'y.

l that piece of land in the township of Butler, be- ing at a stone corner at the edge of the Hazleton Wilkes-Barre road, thence by land now or late of en Yost, designated as lot No. 1, 25 6-10 perches stone corner, thence by land of Hartman Linder- 17 perches to a stone corner, thence by lot now or of said Yost, and designated as lot No. 3, 33 5-10 es to said public road, thence along said road es perches, thence 1 perch to the place of begin- ; containing about 3 acres and 18 perches, being o. 2 and part of lot No. 1; excepting and reserv- about three-quarters of an acre of said lot sold to as Fritzinger; all improved, with a large 2-story building now or late used as dwelling and saloon, stable, well, and fruit trees thereon. 20-22

RPHANS' COURT SALE.

Estate of Anna Elizabeth Meikrantz, deceased. ue of an order of the Orphans' Court of Luzerne y, there will be exposed to public sale, on the es, in Hazleton borough, on Saturday, the 14th of June, A. D. 1884, at one o'clock P. M.

l that lot of ground on the west side of Cedar street, borough of Hazleton, being the lots marked Nos. 5 of square No. 100 in the plan of said borough, ing at a point on the west side of Cedar street st north of Tamarack street, thence northwardly Cedar street 60 feet to a street, thence along said westwardly 190 feet to a certain 20 feet wide , thence along said alley southwardly 60 feet to . 3, thence eastwardly 190 feet to the place of ning; containing 60 feet on Cedar street, and ing westwardly of that width in length or depth et to the alley aforesaid; all coal and other al excepted; improved, with a large 2-story d building, a basement (occupied and used at pre- for hotel and dwelling purposes), a barn, fruit and mental trees, outbuildings, etc.

MS OF SALE.—$200 down on day of sale, balance confirmation of sale and delivery of deed.

T. R. MARTIN,
Administrator.

ORPHANS' COURT SALE.

Estate of L. H. Steele, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, in the city of Wilkes-Barre, on Thursday, the 5th day of June, A. D. 1884, at 10 o'clock A. M.

A lot of land in the borough of Plymouth, beginning at a corner 50 feet from the southeast corner of the Presbyterian Church lot on the northwest side of Church street, thence 147 feet to a corner, thence along the adjoining tier of lots 50 feet to a corner, thence 147 feet to a corner, thence along Church street 50 feet to the place of beginning; containing 7350 square feet of surface or soil, be the same more or less; coal and other minerals reserved; having erected thereon a 2-story frame dwelling, and other improvements.

TERMS OF SALE.—$500 down, balance on confirmation of sale and delivery of deed.

S. A. STEELE,
Administratrix.
H. C. MAGEE,
Attorney. 20-22

ORPHANS' COURT SALE.

Estate of Adam Good (Gouth or Guth), dec'd. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, in the city of Wilkes-Barre, on Thursday, the 12th day of June, A. D. 1884, at 10 o'clock A. M. sharp,

The following real estate, situate on southerly side of Lehigh (formerly Main) street, beginning on Lehigh street, thence easterly 45 feet to Hickory street, thence along Hickory street 150 feet, thence in northerly direction parallel with Lehigh street 45 feet, thence 150 feet to the place of beginning.

TERMS OF SALE.—One-half cash on day of sale, balance on confirmation of sale and delivery of deed.

PETER GOOD,
Administrator.
S. M. RHONE,
Attorney. 20-22

ORPHANS' COURT SALE.

Estate of Benjamin J. Evans, deceased. In partition. By virtue of an order of the Orphans' Court of Luzerne county, the undersigned will expose to public sale, on the premises, on Wednesday, the 25th day of June, A. D. 1884, at 10 o'clock A. M.

All the surface or right of soil of all that lot of land in the borough of Pittston, county aforesaid, bounded and described as follows, to wit: Lot No. 43, on Railroad street, as per map in Pennsylvania Coal Company's office, said lot No. 43 being 50 feet in front on said Railroad street, and extending at right angles to said Railroad street 144 feet to an alley; containing 7200 square feet of land, more or less; with a 1½-story wood dwelling house and outbuildings thereon.

TERMS OF SALE.—One-half down on the day of sale, and balance on confirmation of sale.

JOHN RICHARDS,
Trustee.
WM. J. HUGHES,
Attorney. 21-23

ORPHANS' COURT SALE.

Estate of Mary Ann Hill, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, in the township of Salem, on Wednesday, the 25th day of June, A. D. 1884, at 10 o'clock A. M.

The following piece of land, in Beach Haven, Salem township, bounded on the north by the public road leading to Shickshinny, on the east by land of Thomas McGraw, on the south by the Delaware, Lackawanna and Western Railroad, on the west by land of C. H Smethers; containing about one-third of an acre, and having erected thereon a 2-story dwelling house, stable and outbuildings.

TERMS OF SALE.—$100 down on day of sale, 50 per cent. of balance on confirmation of sale and delivery of deed, and the balance with interest from confirmation in one year from the date of sale. Deferred payments to be secured by bond and mortgage on the premises.

FRANK E. BROCKWAY,
Administrator.
21-23

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ORPHANS' COURT SALE.

Estate of Ellen Taylor, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Store of Pennington & Moore, at Fairmount Springs, in Fairmount township, on Thursday, the 12th day of June, A. D. 1884, at 10 o'clock A. M. sharp,

The following real estate in said Fairmount township, beginning at a corner of Jacob Tight's land, thence by Calloway Harvey and Enos Horn 42 perches, thence west 30 perches, thence by land of Borner Miller heirs 50 perches, thence north 20 perches, thence by William Hirlinger 141 perches, thence south 20 perches, thence by land of Jacob Tight 106.05 perches to the place of beginning; containing 50 acres, more or less; about 30 acres cleared, balance timbered.

TERMS OF SALE.—One-third cash, one-third at confirmation and delivery of deed, balance six months from day of sale with interest. Deferred payment secured by bond and mortgage on premises. At option of purchaser, the whole may be paid on confirmation of sale and delivery of deed.

P. C. WADSWORTH,
Trustee.

S. M. RHONE,
Attorney.

20-22

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Monday, the 2d day of June, 1884, at 10 o'clock A. M., under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, for the charter of an intended corporation, to be called "The Broadway Hall Association of the Borough of Nanticoke, Luzerne county, Pa.," the character and objects whereof are the maintenance and discipline of a military organization, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements.

GEO. B. KULP,
Solicitor.

20-22

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Saturday, the 14th day of June, 1884, at 10 o'clock A. M., under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, for the charter of an intended corporation, to be called "Tabernacle Congregational Church of West Pittston," the character and object whereof are the worship of Almighty God according to the faith, doctrines, discipline, and usages of the Congregational Church in the United States of America, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements.

GEO. S. FERRIS,
Solicitor.

21-23

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Governor of the State of Pennsylvania, on the 25th day of June, A. D. 1884, under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, for the charter of an intended corporation, to be called "The Fairmount Coal Company," the character and object whereof is the mining, preparing, shipping, selling, purchasing, and otherwise dealing in anthracite coal, and also the leasing, purchasing, and holding real estate and leasehold estates to be used and employed in connection therewith, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements. The names of the five subscribers to the charter are M. L. Dreisbach, J. Roberts, jun., Robert Morris, S. M. Nash, and W. W. Amsbry.

E. P. & J. V. DARLING,
Solicitors.

22-24

ESTATES TO BE AUDITED BY THE Orphans' Court of Luzerne county. Notice is hereby given that accounts have been filed and confirmed absolutely by the court in the following estates:

1. John M. Stackhouse; James Post, administrator; 3d June, 1884.
2. Job Kocher; Reuben Godshall, executor; 3d June, 1884.
3. Isabella Mitchell; Robert C. Mitchell, administrator; 4th June, 1884.
4. Samuel Hoyt; Abram Nesbitt, administrator; 4th June, 1884.
5. Charity Pringle; Jacob G. Pringle, administrator; 4th June, 1884.
6. Philip Houpt; L. H. Bennett, trustee; 5th June, 1884.
7. John Fairchild; John M. and Henry S. Fairchild, administrators; 5th June, 1884.
8. Aaron Thomas; Elizabeth Thomas (now dec'd) and Reuben Thomas, executrix and executor; 6th June, 1884.
9. Jacob Drum; Milton Drum, executor; 6th June, 1884.
10. Nathan Rabert; Francis Evans, administrator. 9th June, 1884.
11. John Henry; C. B. Jackson, administrator; 9th June, 1884.
12. George Brown; Reuben Swank, administrator; 10th June, 1884.
13. James Dolan; Philip McAniff, executor; 10th June, 1884.
14. John Frey; Stephen Turnbach, executor; 10th June, 1884.
15. Elizabeth B. Hansam; Christian Lange and Jacob Hansam, executors; 11th June, 1884.
16. Ellen McMahon; William Stoddart, executor; 11th June, 1884.
17. Amzi Wilson; Louisa Wilson (now deceased) and Dilton Yarington, executrix and executor; 11th June, 1884.
18. Samuel Moyer; Homer Smethers, administrator; 12th June, 1884.
19. Charles Moyer; Homer Smethers, administrator; 12th June, 1884.

The accounts enumerated and designated in the above list will be audited by the court, in the Court House, in the Orphans' Court room, during the session of court on the days set forth opposite the name of each estate, at which time all persons interested shall attend, if they see fit, and present their claims against said estate, or forever thereafter be debarred from coming upon said fund.

JOSEPH HENDLER,
Clerk O. C.

20-22

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Abram Wilkoff, and that said license will be asked for in the court aforesaid, on Monday, June 16th, 1884, at 10 o'clock A. M.

P. H. CAMPBELL,
Solicitor.

21-22

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Moses Sussman, and that said license will be asked for in the court aforesaid, on Monday, June 16th, 1884, at 10 o'clock A. M.

P. H. CAMPBELL,
Solicitor.

21-22

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by M. Silvernan, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

JOHN T. LENAHAN,
Solicitor.

22-23

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NOTICE IS HEREBY GIVEN, THAN AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by S. Rubstine, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

D. L. O'NEILL,
22-23 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by S. Silberman, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

E. A. LYNCH,
22-23 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Bernhard Englander, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

Q. A. GATES,
22-22 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Joseph Levison, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

A. R. BRUNDAGE,
22-23 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by J. D. Smith, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

P. H. CAMPBELL,
22-23 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Henry Resh, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

GUSTAV HAHN,
22-23 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by John Phillips, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

JOHN PHILLIPS.
22-23

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by A. Machalouskey, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

D. L. O'NEILL,
22-23 Solicitor.

NOTICE IS HEREBY GIVEN, THAT OWEN Callaghan has presented his petition for the benefit of the insolvent laws, and that the time for hearing said petition is fixed for the 2d day of June, 1884, at 10 o'clock A. M.

M. CANNON,
20-22 Attorney for Petitioner.

LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 138, January term, 1884. Libel in divorce a vinculo matrimonii. Euphemia McGuire *v.* John McGuire. To John McGuire—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoena having failed on account of your absence. Returnable on Monday, June 2, 1884, at 2 o'clock P.M.

M. E. WALKER,
21-22 Solicitor.

LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 776, October term, 1883. Libel in divorce a vinculo matrimonii. Hannah Tiffany, by her next friend, John Moore, *v.* Perry Tiffany. To Perry Tiffany—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoena having failed on account of your absence. Returnable on Monday, June 2, 1884, at 2 o'clock P. M.

E. D. NICHOLS,
21-22 Solicitor.

LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 209, January term, 1884. Libel in divorce a vinculo matrimonii. Diannah Yocum, by her next friend, Elisha Culver, v. James M. Yocum. The alias subpoena in the above case having been returned, "That the said James M. Yocum cannot be found in Luzerne county." You, the said James M. Yocum, respondent, are required to appear on Monday, October 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
M. E. WALKER, Sheriff.
Attorney. 20-23

LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 117, January term, 1884. Libel in divorce a vinculo matrimonii. Susan A. Snyder, by her next friend, A. Fischer, *v.* Hiram J. Snyder. The alias subpoena in the above case having been returned, "That the said Hiram J. Snyder cannot be found in Luzerne county." You, the said Hiram J. Snyder, respondent, are required to appear on Monday, October 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
21-24 Sheriff.

LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 46, February term, 1884. Libel in divorce a vinculo matrimonii. Susanna Hoch, by her next friend, Emanual Rogers, v. Stephen Hoch. The alias subpoena in the above case having been returned, "That the said Stephen Hoch cannot be found in Luzerne county." You, the said Stephen Hoch, respondent, are required to appear on Monday, October 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
H. HAKES, Sheriff.
Attorney. 20-23

AUDITOR'S NOTICE.
The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county, to make distribution of proceeds of Sheriff's sale of personal property of W. S. Heller, hereby gives notice, that he will attend to the duties of his appointment, at his office, No. 15 South Franklin street, Wilkes-Barre, Pa., on Tuesday, the 24th day of June, A. D. 1884, at 11 o'clock A. M., at which time and place all parties having claims against said W. S. Heller are required to present them, and all parties interested are notified to appear, or else be debarred from coming in on said fund.

G. L. HALSEY,
22-25 Auditor.

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WIDOWS' APPRAISEMENTS.

Notice is hereby given to all persons concerned, that widows' appraisements in the following estates have been approved nisi by the Orphans' Court of Luzerne county, and, unless exceptions are filed, will be presented for final approval on Monday, the 2d day of June, 1884:

William Eastwood, John Kennedy, and Charles Kulp, deceased.

JOSEPH HENDLER,
20-22 Clerk O. C.

ESTATE OF MARY ANN HILL, LATE OF Salem township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

F. E. BROCKWAY,
A. K. OSWALD, Beach Haven, Pa.
Attorney. 17-22

ESTATE OF NATHAN WHITNEY, LATE of Hunlock township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

MARY R. MATTHERS,
M. CANNON, Hunlock's Creek, Pa.
Attorney. 17-22

ESTATE OF ISAAC RICE, LATE OF KINGston township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CLARENCE J. RICE,
ABRAM NESBITT,
18-23 Kingston, Pa.

ESTATE OF WILLIAM H. THOMAS, LATE of Ashley, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE THOMAS,
ANDREW HUNLOCK, Ashley, Pa.
Attorney. 18-23

ESTATE OF WILLIAM PEGG, LATE OF Hazleton, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE KISHBAUGH,
18-23 Hazleton, Pa.

ESTATE OF JACOB CEASE, LATE OF JACKson township, deceased.

Letters of administration, *de bonis non*, upon the above named estate having been granted to the undersigned, all persons having claims against the same will present them for payment, and those indebted thereto will please make immediate payment to

GEORGE W. SHONK,
20-25 Plymouth, Pa.

ESTATE OF MARTIN KENNEDY, LATE OF Jenkins township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES O'DONNELL,
21-26 Pittston, Pa.

ESTATE OF HELEN A. BRYANT, LATE OF the Borough of Blakely, Lackawanna county, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

S. B. STURDEVANT,
18-23 Wilkes-Barre, Pa.

ESTATE OF CHARLES KULP, LATE OF Butler township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

FRANKLIN E. KULP,
FREDERICK REIFENBURG,
H. B. PAYNE, St. John P. O.
Attorney. 18-23

ESTATE OF HARRISON HEAVNER, LATE of Nescopeck township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BENJAMIN EVANS,
C. B. JACKSON, Nescopeck, Pa.
Attorney. 19-24

ESTATE OF DANIEL PRICE, LATE OF Kingston township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

J. D. COOPER,
22-27 Kingston, Pa.

ESTATE OF GRACE PAUL, SEN., LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GRACE PAUL, JUN.,
22-27 Hazleton, Pa.

ESTATE OF ELIZA A. PRINGLE, LATE OF Kingston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. C. YOUNG,
H. B. PAYNE, Kingston, Pa.
Attorney. 22-27

ESTATE OF BENTON W. IDE, LATE OF Lehman township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARRIET E. IDE,
C. D. FOSTER, Lehman, Pa.
Attorney. 22-27

ESTATE OF ISAAC B. HARNED, LATE OF Ross township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEO. F. WESLEY,
22-27 Sweet Valley, Pa.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, JUNE 6, 1884. NO. 23.

Supreme Court of Pennsylvania.

SHOEMAKER'S APPEAL.

1. The direction to pay over to a grandson at his arrival at the age of twenty-two years "the annual income and proceeds of any accumulations thereof" does not limit the gift to the interest upon the interest. What is meant is, the income and proceeds of the residuary estate, and of the accumulations, if any, which were authorized to be made during his minority.

2. A power to executors or trustees to lease mineral lands for mining purposes shows very clearly the intent that the proceeds of the lease are to constitute income, and therefore must go to the life-tenants.

For opinion of the court below, see 13 Luz. Leg. Reg. 97, 3 Kulp, 51.

Appeal from decree of the Orphans' Court of the county of Luzerne.

The opinion of the court was delivered May 12, 1884, by

MERCUR, C. J.—A tenant for life, when not precluded by restraining words, may not only work open mines, but may work them to exhaustion. Westmoreland Coal Company's Appeal, 4 Norris, 344, and cases there cited. The will of the testatrix, which we are called upon to construe, expressly authorized the trustees therein named, if they deemed it proper, to "lease the Newport farm for coal mining purposes." In the exercise of that discretion, the trustees did lease, and are receiving the rents, income, and profits therefrom. The testatrix devised to the trustees "all the rest, residue, and remainder of her estate, real, personal, and mixed," which included the Newport farm, in trust, for the "use, property, and benefit" of her grandson. The trustees to apply "the annual income and proceeds thereof" to his support, maintenance, and advancement until he should arrive at the age of twenty-two years, and thereafter to pay over to him

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"the annual income and proceeds of any accumulations thereof, yearly, during his natural life," remainder over. We think the authority to lease the land for coal mining purposes indicates very clearly an intent of the testatrix to make the proceeds a part of the annual income to be paid over to her grandson as the life tenant. It follows the court was correct in the conclusion at which it arrived. The assignments are not sustained.

Decree affirmed, and appeal dismissed, at the costs of the appellants, to be paid out of the trust funds.

Geo. K. Powell, for appellant.

J. V. Darling and Geo. B. Kulp, *contra.*

Supreme Court of Pennsylvania.

HENDRICK *v.* THOMAS.

1. A compromise and payment to the creditor of part of the amount of a judgment restricted in its lien in satisfaction of the whole is upon sufficient consideration and is valid, even though the property out of which it is collectible is of far greater value than the whole debt.

2. Part payment of an overdue but unrestricted debt is not of itself a good consideration, though if the debt were not yet due it would be.

3. Where a debtor pays a portion of the debt on execution, and makes a collateral indefinite promise to give the creditor future employment, whereupon the creditor satisfies the judgment; upon failure to give the employment promised, the remedy is by action for breach of contract, and not by striking off satisfaction of the judgment, or by trial of an issue upon the judgment.

For same case between the parties, see 10 Luz. Leg. Reg. 169, 1 Kulp, 381; 11 Luz. Leg. Reg. 191, 2 Kulp, 149.

Error to the Common Pleas of Luzerne county.

The opinion of the court was delivered May 19, 1884, by

TRUNKEY, J.—In 1872 Hendrick and Thomas purchased a tract of land formerly owned by Hollenback, and engaged in the business of mining coal. On July 31, 1873, Thomas sold his interest to Hendrick for ten thousand dollars, for which Hendrick gave his bond, with warrant of attorney to confess judgment, conditioned that neither the obligation nor the judgment entered thereon should be collected from any other property of said

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Hendrick than that purchased of the Hollenback estate by the firm of Hendrick & Thomas. Judgment was entered upon the bond, and after four thousand dollars had been paid, it was revived by *scire facias* for eight thousand six hundred and sixteen dollars. Soon after the revival, execution was issued. On application of Hendrick, November 13, 1880, a rule to show cause was granted why an order should not be made restricting the collection of the judgment to the Hollenback estate, and why execution should not be stayed as to all other property of defendant. It does not appear that that rule was ever disposed of by the court. But the parties compromised, and January 6, 1881, Thomas gave a receipt in full satisfaction of debt, interest, and all costs paid by him, Hendrick to pay all costs then unpaid, and upon payment thereof the sheriff to return the writ stayed by order of plaintiff. Hendrick paid the costs on the next day. Thomas, by his attorney, February 21, 1881, received the costs due to himself from the sheriff and stayed the writ. Nothing further was done until March 6, 1882, when an *alias* execution was issued. Thereupon Hendrick applied for a rule to show cause why the judgment should not be opened, which was made absolute, and the parties agreed upon an issue for trial to be formed by the judgment standing as a declaration, and the defendant pleading payment, with leave, etc.

At the trial to overcome his receipt, the plaintiff adduced his own statement, unsupported by other testimony, that, as a part of the agreement of compromise, Hendrick promised to give him employment; and upon this point he was contradicted by the defendant, who was strongly corroborated by the other witnesses, who had knowledge of the transaction. The jury evidently thought with him that, "fortunately for truth and justice, witnesses are to be weighed, not counted." This being so, it is well to ascertain the terms of the contract from his own testimony. After stating that he and Stuart went to Hendrick's office, and Stuart stated their business, he says: "Hendrick received us very kindly; he said he didn't know whether he could make any arrangement or not; he had been talking about making arrangements with the Butler Coal Company, but if he could make arrangements with me, he could make arrangements

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with them, and then they would want me to take charge of the mines, run the mine for him. Then the question was asked by Mr. Stuart how much he would give to make a settlement? He said he wouldn't give over six thousand dollars; and if I would make arrangements for those six thousand dollars, why he could make arrangements with the Butler Coal Company and have the breaker start up, and I could have the charge of it. I says: 'If you will do that, I will take the six thousand dollars and settle this law business.' He said he would." Then they went to Gritman's, the receipt was written, read, and signed, and Hendrick gave him the check for six thousand dollars. In cross-examination, he said that Mr. Cowan, treasurer of the Butler Coal Company, had previously told him they were satisfied they could make arrangements with Hendrick if he would make a settlement, and wanted him to take charge of the breaker for them. Cowan said if they could purchase the property, "they would want him to run the breaker for them—something to that effect."

For the purposes of this case, it may be conceded that his testimony was sufficient to warrant a finding by the jury that Hendrick promised him employment in charge of a coal breaker. That employment was to be in the future, not till the mining of coal on the land should be commenced. Nothing was said respecting wages or the term of service, when the service was to begin or end, save that it was to begin when arrangements should be made with the Butler Coal Company. The inquiry is not whether an action would be for the breach of such a promise, or what is the measure of damages for the breach, but whether the plaintiff, holding and enjoying the tangible fruits of the compromise, may treat the sum paid as a mere credit on the amount of the judgment because of the breach of the promise.

The record shows that, at the time of the compromise, the dispute was not concerning the amount of the debt, but whether the stipulation that the lien and collection of the judgment should be restricted to certain property described in the bond should be enforced. It was as competent for the parties to agree upon that restriction as it was for one to convey his interest in the property to the other in consideration of the bond. As originally entered,

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the restriction was in the judgment. The judgment of revival was in default of a sufficient affidavit of defense, and it was in the power of the court to open it at any time for good cause. Instead of contesting the pending rule, the plaintiff agreed to receive, and did receive, six thousand dollars in satisfaction of the debt. The debt was for a larger sum, but the defendant had the option to pay it or suffer certain property to be sold in satisfaction. It is clearly shown by the learned president judge of the Common Pleas that a compromise and payment to the creditor of part of the amount of such a debt as this in satisfaction of the whole is upon sufficient consideration and is valid, even if it could be proved that the property out of which the debt is collectible is of greater value than the whole debt. But payment of an overdue and unrestricted debt, in a legal sense, is neither a benefit to the creditor nor an injury to the debtor, and therefore is not a good consideration for a promise to receive it in satisfaction. But a part payment on account of a debt at any time before it is due will form a good consideration for an agreement for postponement of payment, or for its extinguishment. The law pays no regard to the adequacy of the consideration if it is of some legal benefit to one party or injury to the other, though of the slightest kind it is sufficient. Hartman *v.* Danner, 74 Pa. St. 36. A sealed instrument is presumed to be for a good consideration, and therefore, upon part payment of a debt, a release under seal is valid. A release not under seal, supported by a legal consideration, is equally effective.

Thomas has made no attempt to impeach the settlement for fraud; the evidence fails to show fraud. He still holds the money he took from the defendant when he gave the written acknowledgment in satisfaction. The first act, more than a year after the making of the settlement, was to issue an execution as if the money he had received was only part payment of an ordinary judgment. The writ was stayed by the court, and this issue directed. Had he the right to rescind the agreement of compromise, and intended to exercise it, nothing was easier than to return the money to Hendrick, and place him in the same position as he held immediately before the compromise. It avails nothing that the restriction of lien and collection may yet

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be enforced as to the balance of the amount in excess of the six thousand dollars, for before the compromise Hendrick's right to pay, or let the land be sold in satisfaction, extended to the whole sum, not merely to one-third part. Upon the facts as shown by the record and Thomas' own testimony, if he is entitled to anything, it is for damages resulting from breach of a collateral agreement to give him employment. He cannot recover such damages in an issue in the nature of a *scire facias* to revive the judgment. The judgment is the foundation and extent of his claim. By compromise and payment accordingly, the judgment was satisfied. The settlement involved more than payment of part of an overdue debt, with a promise to give employment at some indefinite time in the future, which the creditor agreed to receive in full from the debtor. If the plaintiff is entitled to recover in this issue, as the case stands, he has all the benefit of the settlement of the matter in dispute as a penalty on the defendant for the breach of such alleged promise. The compromise remains unrescinded, and the plaintiff has no right of action on the judgment.

The first three assignments of error must be sustained. It is unnecessary to remark the other assignments.

Judgment reversed.

E. L. Blakeslee and Michael Cannon, for plaintiff in error.

Q. A. Gates, *contra.*

E. B. Yordy has a few more Court Rules left. They contain the rules of the Common Pleas, Orphans' Court, Quarter Sessions, Supreme Court, and Equity.

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1	In Re Estate of Aramindia S. Rogers, deceased	Nichols, T. H. B., L.	Exceptions to final account of Guardian.
2	In Re Estate of Darius L. Myers, deceased	Nichols, T. H. B., L.	Exceptions to final account of Guardian.
3	In Re Estate of Joseph Sorber, deceased	Cannon, Lynch	Exceptions to final account of Guardian.
4	In Re Estate of Joseph Jaquish, deceased	Payne	Exceptions to final account of Administrator.
5	In Re Estate of Stephen Melick, deceased	Rhone, Shonk	Exceptions to final account of Executor.
6	In Re Estate of Erastus Smith, deceased	P., Richards	Exceptions to partial account of Executors.
7	In Re Estate of Jacob Billheimer, deceased	Darlings, Brundage	Exceptions to final account of Executors.
8	In Re Estate of Daniel Tubbs, deceased	S., T.	Exceptions to final account of Guardian.
9	In Re Estate of John S. Jenkins, deceased	Atherton, McLean	For rehearing.
10	In Re Estate of S. E. McCormick, deceased	C., Patrick	To revoke order to sell real estate.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Henry Resh, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

GUSTAV HAHN,
22-23 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by J. D. Smith, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

P. H. CAMPBELL,
22-23 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Joseph Levison, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

A. R. BRUNDAGE,
22-23 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by John Phillips, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

22-23 JOHN PHILLIPS.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Daniel Conyngham, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

23-24 D. CONYNGHAM.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by A. Machalouskey, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

D. L. O'NEILL,
22-23 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Moses Hyman, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

D. L. O'NEILL,
23-24 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by W. R. Barnes, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

W. H. McCARTNEY,
23-24 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by M. Silvernan, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

JOHN T. LENAHAN,
22-23 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by S. Silberman, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

E. A. LYNCH,
22-23 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by M. M. Gotlieb, and that said license will be asked for in the court aforesaid, on Monday, June 16th, 1884, at 10 o'clock A. M.

P. H. CAMPBELL,
23-24 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by J. Phillips, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

P. H. CAMPBELL,
23-24 Solicitor.

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NOTICE IS HEREBY GIVEN, THAN AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Solomon Rutstine, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

D. L. O'NEILL,
22-23 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Henry Goodman, and that said license will be asked for in the court aforesaid, on Monday, June 16th, 1884, at 10 o'clock A. M.

S. J. STRAUSS,
23-24 Solicitor.

NOTICE IS HEREBY GIVEN, THAT THE following persons have filed their applications for license to keep hotels in the Fifth Ward of the city of Wilkes-Barre, in the office of the Clerk of the Court of Quarter Sessions of the county of Luzerne, and that said applications will be presented to the court aforesaid on Saturday, June 21, 1884, at 10 o'clock A. M.:

James D. Laird, Anthony Turkes.

L. K. STRENG,
23-25 Clerk Q. S.

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Saturday, the 14th day of June, 1884, at 10 o'clock A. M., under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, for the charter of an intended corporation, to be called "Tabernacle Congregational Church of West Pittston," the character and object whereof are the worship of Almighty God according to the faith, doctrines, discipline, and usages of the Congregational Church in the United States of America, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements.

GEO. S. FERRIS,
21-23 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Governor of the State of Pennsylvania, on the 25th day of June, A. D. 1884, under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, for the charter of an intended corporation, to be called "The Fairmount Coal Company," the character and object whereof is the mining, preparing, shipping, selling, purchasing, and otherwise dealing in anthracite coal, and also the leasing, purchasing, and holding real estate and leasehold estates to be used and employed in connection therewith, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements. The names of the five subscribers to the charter are M. L. Dreisbach, J. Roberts, jun., Robert Morris, S. M. Nash, and W. W. Amsbry.

E. P. & J. V. DARLING,
22-24 Solicitors.

LUZERNE COUNTY, ss;

In the Court of Common Pleas of said county. No. 117, January term, 1884. Libel in divorce a vinculo matrimonii. Susan A. Snyder, by her next friend, A. Fischer, *v.* Hiram J. Snyder. The alias subpoena in the above case having been returned, "That the said Hiram J. Snyder cannot be found in Luzerne county." You, the said Hiram J. Snyder, respondent, are required to appear on Monday, October 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
21-24 Sheriff.

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 209, January term, 1884. Libel in divorce a vinculo matrimonii. Diannah Yocum, by her next friend, Elisha Culver, *v.* James M. Yocum. The alias subpoena in the above case having been returned, "That the said James M. Yocum cannot be found in Luzerne county." You, the said James M. Yocum, respondent, are required to appear on Monday, October 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
M. E. WALKER, Sheriff.
Attorney. 20-23

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 46, February term, 1884. Libel in divorce a vinculo matrimonii. Susanna Hoch, by her next friend, Emanual Rogers, *v.* Stephen Hoch. The alias subpoena in the above case having been returned, "That the said Stephen Hoch cannot be found in Luzerne county." You, the said Stephen Hoch, respondent, are required to appear on Monday, October 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
H. HAKES, Sheriff.
Attorney. 20-23

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 546, May term, 1884. Libel in divorce a vinculo matrimonii. Esther B. Schofield, by her next friend, Henry Gilmore, *v.* George W. Schofield. The alias subpoena in the above case having been returned, "That the said George W. Schofield cannot be found in Luzerne county." You, the said George W. Schofield, respondent, are required to appear on Monday, October 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
HENRY W. DUNNING, Sheriff.
Attorney. 23-26

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 176, January term, 1884. Libel in divorce a vinculo matrimonii. Ann Thomas, by her next friend, Wm. D. Williams, *v.* John H. Thomas. The alias subpoena in the above case having been returned, "That the said John H. Thomas cannot be found in Luzerne county." You, the said John H. Thomas, respondent, are required to appear on Monday, October, 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
GEO. W. SHONK, Sheriff.
Attorney. 23-26

AUDITOR'S NOTICE.

The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county, to make distribution of proceeds of Sheriff's sale of personal property of W. S. Heller, hereby gives notice, that he will attend to the duties of his appointment, at his office, No. 15 South Franklin street, Wilkes-Barre, Pa., on Tuesday, the 24th day of June, A. D. 1884, at 11 o'clock A. M., at which time and place all parties having claims against said W. S. Heller are required to present them, and all parties interested are notified to appear, or else be debarred from coming in on said fund.

G. L. HALSEY,
22-25 Auditor.

ESTATE OF HELEN A. BRYANT, LATE OF the Borough of Blakely, Lackawanna county, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

S. B. STURDEVANT,
18-23 Wilkes-Barre, Pa.

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ORPHANS' COURT SALE.

Estate of Anna Elizabeth Meikrantz, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, in Hazleton borough, on Saturday, the 14th day of June, A. D. 1884, at one o'clock P. M.

All that lot of ground on the west side of Cedar street, in the borough of Hazleton, being the lots marked Nos. 4 and 5 of square No. 100 in the plan of said borough, beginning at a point on the west side of Cedar street 90 feet north of Tamarack street, thence northwardly along Cedar street 60 feet to a street, thence along said street westwardly 190 feet to a certain 20 feet wide alley, thence along said alley southwardly 60 feet to lot No. 3, thence eastwardly 190 feet to the place of beginning; containing 60 feet on Cedar street, and extending westwardly of that width in length or depth 190 feet to the alley aforesaid; all coal and other mineral excepted; improved, with a large 2-story frame building, a basement (occupied and used at present for hotel and dwelling purposes), a barn, fruit and ornamental trees, outbuildings, etc.

TERMS OF SALE.—$200 down on day of sale, balance on confirmation of sale and delivery of deed.

T. R. MARTIN,
21-23 Administrator.

ORPHANS' COURT SALE.

Estate of Benjamin J. Evans, deceased. In partition. By virtue of an order of the Orphans' Court of Luzerne county, the undersigned will expose to public sale, on the premises, on Wednesday, the 25th day of June, A. D. 1884, at 10 o'clock A. M.

All the surface or right of soil of all that lot of land in the borough of Pittston, county aforesaid, bounded and described as follows, to wit: Lot No. 43, on Railroad street, as per map in Pennsylvania Coal Company's office, said lot No. 43 being 50 feet in front on said Railroad street, and extending at right angles to said Railroad street 144 feet to an alley; containing 7200 square feet of land, more or less; with a 1½-story wood dwelling house and outbuildings thereon.

TERMS OF SALE.—One-half down on the day of sale, and balance on confirmation of sale.

JOHN RICHARDS,
WM. J. HUGHES, Trustee.
Attorney. 21-23

ORPHANS' COURT SALE.

Estate of Mary Ann Hill, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, in the township of Salem, on Wednesday, the 25th day of June, A. D. 1884, at 10 o'clock A. M.

The following piece of land, in Beach Haven, Salem township, bounded on the north by the public road leading to Shickshinny, on the east by land of Thomas McGraw, on the south by the Delaware, Lackawanna and Western Railroad, on the west by land of C. H. Smethers; containing about one-third of an acre, and having erected thereon a 2-story dwelling house, stable and outbuildings.

TERMS OF SALE.—$100 down on day of sale, 50 per cent. of balance on confirmation of sale and delivery of deed, and the balance with interest from confirmation in one year from the date of sale. Deferred payments to be secured by bond and mortgage on the premises. FRANK E. BROCKWAY,
21-23 Administrator.

WILLIAM S. McLEAN,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

ESTATE OF JACOB CEASE, LATE OF JACKson township, deceased.

Letters of administration, *de bonis non*, upon the above named estate having been granted to the undersigned, all persons having claims against the same will present them for payment, and those indebted thereto will please make immediate payment to

GEORGE W. SHONK,
20-25 Plymouth, Pa.

ESTATE OF WILLIAM EASTWOOD, LATE of Hazle township, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are aequested to make payment, and those having claims or demands to present the same, without delay, to

WILLIAM W. DAVIS,
16-22 Stockton, Pa.

ESTATE OF ISAAC RICE, LATE OF KINGston township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CLARENCE J. RICE,
ABRAM NESBITT,
18-23 Kingston, Pa.

ESTATE OF WILLIAM H. THOMAS, LATE of Ashley, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE THOMAS,
ANDREW HUNLOCK, Ashley, Pa.
Attorney. 18-23

ESTATE OF CHARLES KULP, LATE OF Butler township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

FRANKLIN E. KULP,
FREDERICK REIFENBURG,
H. B. PAYNE, St. John P. O.
Attorney. 18-23

ESTATE OF HARRISON HEAVNER, LATE of Nescopeck township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BENJAMIN EVANS,
C. B. JACKSON, Nescopeck, Pa.
Attorney. 19-24

ESTATE OF MARTHA A. KIDDER, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

REV. C. H. KIDDER,
19-25 Wilkes-Barre, Pa.

ESTATE OF THEODORE H. BRYMER, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE A. BRYMER,
JOHN McGAHREN, Wilkes-Barre, Pa.
Attorney. 23-28

ESTATE OF ALMON MORRIS, LATE OF Pittston, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ROBERT MORRIS,
E. P. & J. V. DARLING, Pittston, Pa.
Attorneys. 23-28

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ESTATE OF WILLIAM PEGG, LATE OF Hazleton, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE KISHBAUGH,
18-23 Hazleton, Pa.

ESTATE OF MARTIN KENNEDY, LATE OF Jenkins township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES O'DONNELL,
21-26 Pittston, Pa.

ESTATE OF ELIZA A. PRINGLE, LATE OF Kingston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. C. YOUNG,
H. B. PAYNE, Kingston, Pa.
Attorney. 22-27

ESTATE OF BENTON W. IDE, LATE OF Lehman township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARRIET E. IDE,
C. D. FOSTER, Lehman, Pa.
Attorney. 22-27

ESTATE OF DANIEL PRICE, LATE OF Kingston township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

J. D. COOPER,
22-27 Kingston, Pa.

ESTATE OF GRACE PAUL, SEN., LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GRACE PAUL, JUN.,
22-27 Hazleton, Pa.

ESTATE OF ISAAC B. HARNED, LATE OF Ross township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEO. F. WESLEY,
22-27 Sweet Valley, Pa.

CHAS. D. FOSTER,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

W. S. PARSONS,
ALDERMAN,
WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, JUNE 13, 1884. NO. 24.

Court of Common Pleas of Luzerne County.

CAMPBELL *v.* WILLIAMS.

1. Mere inadequacy of price is not sufficient ground for setting aside a sheriff's sale.
2. Where the inadequacy is very gross, and where no person interested can be harmed in any way, the court will be authorized, in the exercise of the discretion vested in it, in seizing on any other matter of equity to set the sale aside.

Rule to show cause why sheriff's sale shall not be set aside.

The opinion of the court was delivered January 19, 1881, by

RICE, P. J.—Mere inadequacy of price is not sufficient ground for setting aside a sheriff's sale, but where the inadequacy is very gross, and where no person interested can be harmed in any way, the court will be authorized, in the exercise of the discretion vested in it, in seizing on any other matter of equity to set the sale aside. In this case the property brought $1625. The applicant for the present rule is a lien creditor, and offers to give security for a bid of $2100. We are compelled to conclude from the depositions that, without the intentional fault of any one, he was misled as to the day of sale by a conversation which he had with the sheriff. There was a clear mistake, which, with the great inadequacy of price, seems to us a sufficient equity to warrant our interference. It is to be observed also that the purchaser is not a lien creditor, and can lose nothing but the interest on his bid. This the present applicant ought to pay. We may say, however, in this connection, that, if the purchaser were a creditor, and had indirectly secured his debt by his advantageous purchase, but would lose it in case of a resale, we should feel inclined to reward his diligence by securing to him the benefits of his bargain. But nothing of this kind appears, and we think, therefore, that the greater equities of the present applicant ought to prevail.

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And now, to wit: January 19, 1881, it is ordered that, upon the said Robert Rutledge filing of record a bond to the commonwealth to the use of the parties interested in the sum of five thousand dollars, with two sufficient sureties to be approved by the court, conditioned that upon a resale of the said property he will bid and pay for the same the sum of twenty-one hundred dollars, and upon his paying to the purchaser, E. W. Sturdevant, or his attorney, the interest on the amount bid by the latter from the time the bid was complied with, the rule be made absolute; but upon his failure to comply forthwith with these conditions, that the rule be discharged.

W. S. McLean, Esq., and E. V. Jackson, Esq., for rule.
C. H. & E. W. Sturdevant, Esqs., *contra*.

Supreme Court of Pennsylvania.

BLACK'S APPEAL.

1. In feigned issues at law, other than those under the Sheriff's Interpleader Act, the general rule is that costs follow judgment.

2. Under the Sheriff's Interpleader Act, which declares that "the costs of all such proceedings shall be in the discretion of the court," refers solely to proceedings and issues under that act, and has no application whatever to other feigned issues directed by the court for the purpose of determining disputed questions of fact according to the course of common law.

For opinion of the court below, see 13 Luz. Leg. Reg. 57, 3 Kulp, 29.

Appeal from the Court of Common Pleas of Luzerne county.

The opinion of the court was delivered May 19, 1884, by

STERRETT, J.—In the feigned issue to determine which of the two claimants was entitled to the fund in court, the verdict and judgment were in favor of the defendant, who thereupon filed his bill of costs, amounting to $274.43. On application of plaintiff in the issue, the court ordered "that one-half of the costs, including witness fees on both sides, be paid by the plaintiff, and the other half by the defendant." From that order the defendant appealed, and his contention is, that the costs being an incident of the judgment, the court had no power to impose any part thereof on him.

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No question is raised as to the validity of the judgment or regularity of the proceedings leading thereto. If there was, a writ of error would be the appropriate remedy. The only subject of complaint is the order made after rendition of the judgment, and that is clearly reviewable on this appeal. Snyder *v.* Kunkleman, 2 Watts, 426. It was there held that, after verdict and judgment in a feigned issue to determine a contested right to proceeds of sheriff's sale, a decree of court, as to payment of costs of the issue, is the subject of revision on appeal, but not on a writ of error to the judgment. There is nothing, therefore, in the suggestion that appellant has mistaken his remedy.

At common law, no costs were allowed, the amercement of the vanquished party being his only punishment; but in assessing damages, costs were generally considered by the jury, and included in their verdict. Costs, *eo nomine*, were first given to plaintiffs by the statute of Gloucester, 6 Edw. 1, c. 1. Afterwards by the statutes, 23 Hen. 8, c. 15; 4 Jac. 1, c. 3; 8 and 9 Wm. 3, c. 2; and 4 and 5 Anne, c. 16, the successful defendant was allowed the same costs as the plaintiff would have been entitled to if he had recovered. 4 Minor's Institutes, 788; 3 Blackstone, 399. With some statutory limitations and qualifications, which it is unnecessary to specially notice, the rule thus established in England has always been recognized and enforced here. In equity, the practice is different, but in actions at law the general rule undoubtedly is that costs follow the judgment; and hence it is incumbent on an unsuccessful litigant who claims either partial or entire relief from the costs of suit to point to the statute that warrants exemption from the burden. The order complained of in this case appears to have been based on the special provision of the Sheriff's Interpleader Act and decisions thereunder. That act, it is true, declares, "the costs of all such proceedings shall be in the discretion of the court," but this clause refers solely to proceedings and issues under that act, and has no application whatever to other feigned issues directed by the court for the purpose of determining disputed questions of fact according to the course of common law. When the issue in question was made up, it was like any other issue of fact presented by the pleadings in an action at law, and subject to the same rules of practice as to trial, judgment, and all the incidents thereof. The

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question was whether the money in court belonged to the plaintiff or to the defendant. The jury declared by their verdict that it belonged to the latter, and judgment was accordingly entered in his favor on the verdict. Like ordinary judgments in actions at law, it carried costs, and the court erred in making an order, the effect of which was to prevent appellant from proceeding to collect full costs from the unsuccessful plaintiff in the issue.

The order of the court below is reversed and set aside at the costs of the appellee, and it is ordered that the record be remitted for further proceedings according to law.

J. T. Lenahan and John Lynch, Esqs., for plaintiff in error.
W. H. McCartney, Esq., *contra.*

Supreme Court of Pennsylvania.

O'MALLEY *v.* LUZERNE COUNTY.

The Act of Assembly of 12th June, 1878, which ascertained and appointed the fees to be received by the various county officers of the commonwealth is not a repeal of the special act of 9th April, 1873, applicable to Luzerne county.

For opinion of the court below, see 13 Luz. Leg. Reg. 91, 3 Kulp, 41.

Error to Common Pleas of the county of Luzerne.

The opinion of the court was delivered May 5, 1884.

PER CURIAM.—This case is ruled by County of Lackawanna *v.* Stevens, decided at the present term. The precise question there was whether the act of 9th April, 1873, was repealed by the act 12th June, 1878. We held it was not. That controls this case, and shows the learned judge erred in entering judgment for the lesser sum.

Judgment reversed, and now judgment in favor of the plaintiff for the sum of four hundred and sixty-eight dollars, with costs, and interest from the first of January, 1883, as stipulated in the case stated.

E. P. & J. V. Darling, Esqs., for plaintiff in error.
W. S. McLean, Esq., *contra.*

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MASTER'S SALE OF REAL ESTATE OF Maria Fritz, deceased.

In pursuance of an order of the Court of Common Pleas of Luzerne county, made on the 2d day of June, 1884, in No. 1, February term, 1884, in Equity, I shall expose to public sale or outcry at the Arbitration Room, Court House, Wilkes-Barre, Pa., on Tuesday, the 8th day of July, 1884, at 10 o'clock A. M.,

All that portion or lot of land situated in Hanover township, Luzerne county, Pennsylvania, bounded and described as follows, to wit: Beginning at a point or corner on a street called South street laid out on a plan or plot of lots or land formerly owned or now owned by Elizabeth Kilmore, and where line between Nos. 13 and 14 in such land or plot intersects the northern side of said South street; thence north 41 decrees 45 minutes east, 119 feet, be the distance more or less, to the line of land embraced in the homestead lot of said Elizabeth Kilmore; thence north 48 degrees 15 minutes west, 50 feet along such line of land embraced in said homestead lot to a point or corner; thence south 41 degrees 45 minutes west, 119 feet to a point or corner on said South street, be the distance more or less; thence south 48 degrees 15 minutes east, 50 feet to the place of beginning; containing 7500 square feet of land, be the same more or less, being lot No. 14 in plot of lots already mentioned; improved, with a 2-story dwelling house and outbuildings.

TERMS OF SALE.—Fifty per cent. cash on the day of sale, and the balance thirty days thereafter, at which time a deed will be delivered for the premises to the purchaser.

S. J. STRAUSS,
24-26 Master in Chancery.

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Governor of the State of Pennsylvania, on the 25th day of June, A. D. 1884, under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, for the charter of an intended corporation, to be called "The Fairmount Coal Company," the character and object whereof is the mining, preparing, shipping, selling, purchasing, and otherwise dealing in anthracite coal, and also the leasing, purchasing, and holding real estate and leasehold estates to be used and employed in connection therewith, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements. The names of the five subscribers to the charter are M. L. Dreisbach, J. Roberts, jun., Robert Morris, S. M. Nash, and W. W. Amsbry.

E. P. & J. V. DARLING,
22-24 Solicitors.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Daniel Conyngham, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

D. CONYNGHAM.
23-24

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Moses Hyman, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

D. L. O'NEILL,
23-24 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by W. R. Barnes, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

W. H. McCARTNEY,
23-24 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by M. M. Gotlieb, and that said license will be asked for in the court aforesaid, on Monday, June 16th, 1884, at 10 o'clock A. M.

P. H. CAMPBELL,
23-24 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by J. Phillips, and that said license will be asked for in the court aforesaid on Monday, June 16th, 1884, at 10 o'clock A. M.

P. H. CAMPBELL,
23-24 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Henry Goodman, and that said license will be asked for in the court aforesaid, on Mondav, June 16th, 1884, at 10 o'clock A. M.

S. J. STRAUSS,
23-24 Solicitor.

NOTICE IS HEREBY GIVEN, THAT THE following persons have filed their applications for license to keep hotels in the Fifth Ward of the city of Wilkes-Barre, in the office of the Clerk of the Court of Quarter Sessions of the county of Luzerne, and that said applications will be presented to the court aforesaid on Saturday, June 21, 1884, at 10 o'clock A. M.:

James D. Laird, Anthony Turkes.

L. K. STRENG,
23-25 Clerk Q. S.

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Saturday, the 28th day of June, 1884, at 10 o'clock A. M., under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, for the charter of an intended corporation, to be called "The Yostrusko Benevolent Society of Freeland," the character and object whereof are to care for the sick and burial of the dead, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements.

JOHN D. HAYES,
24-26 Solicitor.

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 117, January term, 1884. Libel in divorce a vinculo matrimonii. Susan A. Snyder, by her next friend, A. Fischer, *v.* Hiram J. Snyder. The alias subpoena in the above case having been returned, "That the said Hiram J. Snyder cannot be found in Luzerne county." You, the said Hiram J. Snyder, respondent, are required to appear on Monday, October 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
21-24 Sheriff.

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 546, May term, 1884. Libel in divorce a vinculo matrimonii. Esther B. Schofield, by her next friend, Henry Gilmore, *v.* George W. Schofield. The alias subpoena in the above case having been returned, "That the said George W. Schofield cannot be found in Luzerne county." You, the said George W. Schofield, respondent, are required to appear on Monday, October 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
HENRY W. DUNNING, Sheriff.
Attorney. 23-26

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LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 176, January term, 1884. Libel in divore a vinculo matrimonii. Ann Thomas, by her next friend, Wm. D. Williams, *v.* John H. Thomas. The alias subpoena in the above case having been returned, "That the said John H. Thomas cannot be found in Luzerne county." You, the said John H. Thomas, respondent, are required to appear on Monday, October, 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
GEO. W. SHONK, Sheriff.
Attorney. 23-26

ESTATE OF HARRISON HEAVNER, LATE of Nescopeck township, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BENJAMIN EVANS,
C. B. JACKSON, Nescopeck, Pa.
Attorney. 19-24

ESTATE OF JACOB CEASE, LATE OF JACKson township, deceased.
Letters of administration, *de bonis non*, upon the above named estate having been granted to the undersigned, all persons having claims against the same will present them for payment, and those indebted thereto will please make immediate payment to

GEORGE W. SHONK,
20-25 Plymouth, Pa.

ESTATE OF MARTHA A. KIDDER, LATE of Wilkes-Barre, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

REV. C. H. KIDDER,
19-25 Wilkes-Barre, Pa.

ESTATE OF MARTIN KENNEDY, LATE OF Jenkins township, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES O'DONNELL,
21-26 Pittston, Pa.

ESTATE OF DANIEL PRICE, LATE OF Kingston township, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

J. D. COOPER,
22-27 Kingston, Pa.

ESTATE OF THEODORE H. BRYMER, LATE of Wilkes-Barre, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE A. BRYMER,
JOHN McGAHREN, Wilkes-Barre, Pa.
Attorney. 23-28

ESTATE OF ALMON MORRIS, LATE OF Pittston, deceased.
Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ROBERT MORRIS,
E. P. & J. V. DARLING, Pittston, Pa.
Attorneys. 23-28

AUDITOR'S NOTICE.
The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county, to make distribution of proceeds of Sheriff's sale of personal property of W. S. Heller, hereby gives notice, that he will attend to the duties of his appointment, at his office, No. 15 South Franklin street, Wilkes-Barre, Pa., on Tuesday, the 24th day of June, A. D. 1884, at 11 o'clock A. M., at which time and place all parties having claims against said W. S. Heller are required to present them, and all parties interested are notified to appear, or else be debarred from coming in on said fund.

G. L. HALSEY,
22-25 Auditor.

ESTATE OF BENTON W. IDE, LATE OF Lehman township, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARRIET E. IDE,
C. D. FOSTER, Lehman, Pa.
Attorney. 22-27

ESTATE OF GRACE PAUL, SEN., LATE OF Hazleton, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GRACE PAUL, Jun.,
22-27 Hazleton, Pa.

ESTATE OF ISAAC B. HARNED, LATE OF Ross township, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEO. F. WESLEY,
22-27 Sweet Valley, Pa.

ESTATE OF JOHN KLEIN, 2D, LATE OF Wilkes-Barre, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

JACOB KLEIN,
24-29 Wilkes-Barre, Pa.

ESTATE OF NANCY J. HANN, LATE OF Kingston township, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EVAN FRANKLIN.
E. G. BUTLER, Town Hill, Pa.
Attorney. 24-29

ESTATE OF H. SMITH DENNIS, LATE OF Elizabeth, N. J., deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES BLACK,
W. H. HINES, Ashley, Pa.
Attorney. 24-29

ESTATE OF MARY A. TENCH, LATE OF West Pittston, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELIZABETH TENCH,
24-29 Pittston, Pa.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, JUNE 20, 1884. No. 25.

Court of Common Pleas of Schuylkill County.

RINEHART & BRO. *v.* BODINE *et al.*

Where goods have been levied upon under different executions a claimant will only have to give one bond under the Interpleader Act, and not a bond for each execution.

Sheriff's interpleader. Feigned issue.

The opinion of the court was delivered by

WALKER, J.—On the 4th of April, 1876, the sheriff leved upon certain articles as the property of Samuel Rinehart under four executions issued by Bodine & Warn, Clark, Holland & Co., The Lock Haven National Bank, and H. Merrimon & Son. Eight other executions were also issued. On the 6th of May, 1876, B. F. Rinehart & Bro. gave written notice to the sheriff that they claimed to own the property levied upon. Upon the application of the sheriff, the court granted the usual rule, and made it absolute, and ordered an issue to try the title to the property levied upon—the claimants to be plaintiffs, and the execution creditors to be defendants.

A bond was filed by the claimants in the sum of $1000 in all the cases in which executions had been issued. After this had been done, the counsel for Clark, Holland & Co. applied to the court to have a separate and additional bond filed in his case, and that the amount be increased so as to correspond with the executions in the sheriff's hands.

On the 31st of March, 1876, Bodine & Warn's execution was placed in the sheriff's hands, and of course bound all the defendant's personal property within the sheriff's bailiwick. Pur. Dig. 643 pl. 44; Duncan *v.* McCumber, 10 Watts, 212; Earl's Appeal, 1 Harris, 483-5. On April 3, 1876, the other three *fi. fas.* of Clark, Holland & Co., The Lock Haven Bank, and H. Merrimon

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& Son came to hand; and on April 4, 1876, levies were made upon the property in dispute on all the four writs. On April 25 and May 1, three other writs came to hand; and on April 26 and May 2, levies upon the same articles were marked on each writ. The levies on the next batch of five writs were made *subject to the first levies.* The sheriff's endorsement on all these writs amounted to a re-seizure of the goods already taken on the former writs. Watmough *v.* Francis, 7 Barr, 206. There was but one claim made, and that was on the first writ. As the plaintiffs in this issue are the only claimants, it is very evident that there should be but a single issue formed in the cases in which the first levies were made, even though there are twelve executions in the sheriff's hands. If more than one issue were formed to determine the ownership of these goods, then in all probability we would have contradictory verdicts. The subsequent execution creditors are in no way injured by such a procedure, for their writs are liens upon the property subject to former levies. 7 Barr, 206; Bain *v.* Lyle, 18 P. F. S. 60. On the giving of the bond, the property is placed in the possession of the claimant; his custody is substituted for the custody of the sheriff. The property is not withdrawn from the custody of the law. In the hands of the claimant under the bond, the property is as free from the reach of other process as it would have been in the hands of the sheriff. Johnson *v.* Miller, 1 T. & H. 903; Hogan *v.* Lucus, 10 Pet. 400; Purdon's Digest, 644, and notes. Neither can subsequent execution creditors be hindered or delayed, for it is the duty of the second execution creditor in such case to call on the first either to take issue on the claim or relinquish the levy. Howell *v.* Roberts, Leg. and Ins. R. 9. To require a second bond (after one good and sufficient one for the forthcoming of the property has been approved and filed) would be entirely useless as a security to subsequent execution creditors, and might be oppressive to the claimants. It certainly is contrary to our practice, where there is but a single issue, and should not be required, unless some good reason existed for so doing, which does not now appear.

In all cases under the Sheriff's Interpleader Act the amount of the bond should be in double the value of the goods claimed or levied upon with sufficient and approved security without

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reference to the number and amount of the executions in the sheriff's hands.

We are therefore clearly of the opinion that this application for another bond should be refused.

Application refused.

Court of Common Pleas of Luzerne County.

GOODMAN & CO. *v.* SONDHEIM.

Attachment—Act 1869.

1. It may be questioned whether a bare allegation of information and belief, unaccompanied by any statement of the facts or sources of the information or the grounds of belief, is sufficient in an affidavit upon which this writ is founded.

2. An allegation "that said goods were bought under false and fraudulent misrepresentations," while not in the exact language of the act, does in substance charge that the debt was fraudulently contracted.

3. More than one allegation of fraud may be included in the affidavit.

4. An affidavit which refers to an annexed statement which sufficiently describes the kind of property and the dates when purchased, held to be good.

Rule to show cause why attachment should not be dissolved.

The opinion of the court was delivered April 21, 1884, by

RICE, P. J.—The affidavit upon which this writ was allowed to issue alleges "that said goods were bought under false and fraudulent misrepresentations," and "that deponent is informed and believes that said defendant is about to assign and transfer his goods and chattels and property fraudulently, with the intent to cheat and defraud his creditors."

The act of assembly authorizes the prothonotary to issue the writ "upon *proof* by the affidavit, etc.," of any one or more of several fraudulent acts mentioned. Act March 17, 1869, P. L. 8. It is a sufficient warrant to the officer if the affidavit, precisely or substantially, follows the language of the statute. The design of the act, in this particular, was not so much to satisfy the mind of the prothonotary as to the rectitude of the application "as to commit on oath the applicant to the truth of his allegations, in order that he might thereafter be legally liable therefor." Sharpless *v.* Ziegler, 11 Nor. 467. This being the design of the act,

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it may be questioned whether a bare allegation of information and belief, unaccompanied by any statement of the facts or sources of the information, or the grounds of belief either, constitutes that "proof" which the act requires, or commits the affiant to the truth of any material allegation necessary to authorize the issuing of the writ. His "information" may be the idlest gossip or vaguest slander, and his "belief" the merest suspicion, with nothing substantial to support them. Without positively deciding the question, however, we may say that, in a matter so simple as framing an affidavit under this act, there is little room for excusable mistakes, or occasion for trying doubtful experiments.

But the first allegation, while perhaps open to verbal criticism, and while not in the exact language of the statute, does, as we think, charge in substance that the debt was fraudulently contracted. The representations, as charged, under which the goods were bought, were not merely false, but fraudulent. In reasonable intendment, the language, taken with what precedes, implies not merely deception and an intent to deceive, but a fraud acted out, by which the plaintiffs were induced to part with their goods. And without discussing the facts at length, we conclude that this allegation is sustained by the evidence.

It is suggested, however, rather than argued that an affidavit in this proceeding ought to contain but a single allegation of fraud. In this we cannot concur. So long as they are not radically inconsistent and repugnant, we see no reason drawn from the language of the act, or from analogy for holding that the plaintiff must elect which of the fraudulent acts he will rely on, and confine his allegations and proofs to that. Neither can we conclude that the case comes within the ruling in Biddle *v.* Black, 3 Out. 380. Here the affidavit refers to an annexed statement which sufficiently describes the kind of property and the dates when it was purchased. In the case cited the affidavit and annexed statement were defective in both of these particulars, and hence there was a failure to comply with the requirement of a statement of "the nature and amount of such indebtedness."

The rule is discharged.

W. S. McLean, Esq., for plaintiff.

George H. Troutman, Esq., *contra.*

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MASTER'S SALE OF REAL ESTATE OF Maria Fritz, deceased.

In pursuance of an order of the Court of Common Pleas of Luzerne county, made on the 2d day of June, 1884, in No. 1, February term, 1884, in Equity, I shall expose to public sale or outcry at the Arbitration Room, Court House, Wilkes-Barre, Pa., on Tuesday, the 8th day of July, 1884, at 10 o'clock A. M.,

All that portion or lot of land situated in Hanover township, Luzerne county, Pennsylvania, bounded and described as follows, to wit: Beginning at a point or corner on a street called South street laid out on a plan or plot of lots or land formerly owned or now owned by Elizabeth Kilmore, and where line between Nos. 13 and 14 in such land or plot intersects the northern side of said South street; thence north 41 decrees 45 minutes east, 119 feet, be the distance more or less, to the line of land embraced in the homestead lot of said Elizabeth Kilmore; thence north 48 degrees 15 minutes west, 50 feet along such line of land embraced in said homestead lot to a point or corner; thence south 41 degrees 45 minutes west, 119 feet to a point or corner on said South street, be the distance more or less; thence south 48 degrees 15 minutes east, 50 feet to the place of beginning; containing 7500 square feet of land, be the same more or less, being lot No. 14 in plot of lots already mentioned; improved, with a 2-story dwelling house and outbuildings.

TERMS OF SALE.—Fifty per cent. cash on the day of sale, and the balance thirty days thereafter, at which time a deed will be delivered for the premises to the purchaser.

S. J. STRAUSS,
24-26 Master in Chancery.

ORPHANS' COURT SALE.

Estate of Frederick Bach, sen., deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Saturday, the 12th day of July, A. D. 1884, at 10 o'clock A. M.

The following real estate, beginning at a corner on Canal street, in the city of Wilkes-Barre, on line of lands of Charles F. Wells, thence along said Wells' line 200 feet to lands of the estate of John R. Dean, deceased, thence along said Dean's line 29 feet to land conveyed to Ami Masterson, thence along the same 200 feet to Canal street, thence along said Canal street 29 feet to the place of beginning; containing 5800 square feet of land, more or less; whereon is erected a 2-story frame building, used as a dwelling house and saloon.

TERMS OF SALE.—$500 down, 50 per cent. of balance on confirmation of sale and delivery of deed, and the balance with interest in one year from said confirmation of sale and delivery of deed. The payment of the whole purchase money at the time of confirmation of sale and delivery of deed may be made by purchaser if desired. Deferred payments to be secured by bond and mortgage on the premises.

G. A. BACH,
M. E. WALKER, Administrator, c. t. a.
Attorney. 25-27

NOTICE IS HEREBY GIVEN, THAT THE following persons have filed their applications for license to keep hotels in the Fifth Ward of the city of Wilkes-Barre, in the office of the Clerk of the Court of Quarter Sessions of the county of Luzerne, and that said applications will be presented to the court aforesaid on Saturday, June 21, 1884, at 10 o'clock A. M.:

James D. Laird, Anthony Turkes.

L. K. STRENG,
23-25 Clerk Q. S.

ESTATE OF ELIZA A. PRINGLE, LATE OF Kingston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. C. YOUNG,
H. B. PAYNE, Kingston, Pa.
Attorney. 22-28

ORPHANS' COURT SALE.

Estate of Isaac B. Titus, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, in Shickshinny borough, on Saturday, the 19th day of July, A. D. 1884, at 2 o'clock P. M., the following real estate:

All those two lots of land in the first ward in the borough of Shickshinny, beginning at a corner of a lot on Canal street, thence easterly along land of same 150 feet, thence northerly 100 feet, thence westerly 150 feet to Canal street, thence southerly along Canal street 100 feet to the place of beginning, being lots Nos. 147 and 148 as marked on the town plot of the borough of Shickshinny; lot No. 148 has erected on same a 1½-story frame dwelling house and other buildings.

TERMS OF SALE.—$100 down, 33⅓ per cent. of balance on confirmation of sale and delivery of deed, and the balance, with the interest from confirmation, as follows; 33⅓ per cent. January 1st, 1885, and 33⅓ per cent. April 1st, 1885; purchaser to have the option of paying full amount of his bid at confirmation of sale and delivery of deed. Deferred payments to be secured by bond and mortgage on the premises.

GEO. W. YOULLS,
M. E. WALKER, Administrator.
Attorney. 25-27

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 546, May term, 1884. Libel in divorce a vinculo matrimonii. Esther B. Schofield, by her next friend, Henry Gilmore, *v.* George W. Schofield. The alias subpoena in the above case having been returned, "That the said George W. Schofield cannot be found in Luzerne county." You, the said George W. Schofield, respondent, are required to appear on Monday, October 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
HENRY W. DUNNING, Sheriff.
Attorney. 23-26

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 176, January term, 1884. Libel in divorce a vinculo matrimonii. Ann Thomas, by her next friend, Wm. D. Williams, *v.* John H. Thomas. The alias subpoena in the above case having been returned, "That the said John H. Thomas cannot be found in Luzerne county." You, the said John H. Thomas, respondent, are required to appear on Monday, October, 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
GEO. W. SHONK, Sheriff.
Attorney. 23-26

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 174½, February term, 1884. Libel in divorce a vinculo matrimonii. Agnes M. Toshack, by her next friend William McDonald, *v.* John Toshack. The alias subpoena in the above case having been returned, "That the said John Toshack cannot be found in Luzerne county." You, the said John Toshack, respondent, are required to appear on Monday, October 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
A. FARNHAM. Sheriff.
Attorney. 25-28

ESTATE OF BRIDGET GALLAGHER, LATE of Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

LAWRENCE MOROHAN,
C. F. BOHAN, Pittston, Pa.
Attorney. 25-30

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AUDITOR'S NOTICE.

The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county, to make distribution of proceeds of Sheriff's sale of personal Property of W. S. Heller, hereby gives notice, that he will attend to the duties of his appointment, at his office, No. 15 South Franklin street, Wilkes-Barre, Pa., on Tuesday, the 24th day of June, A. D. 1884, at 11 o'clock A. M., at which time and place all parties having claims against said W. S. Heller are required to present them, and all parties interested are notified to appear, or else be debarred from coming in on said fund.

G. L. HALSEY,
22-25 Auditor.

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Saturday, the 28th day of June, 1884, at 10 o'clock A. M., under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, for the charter of an intended corporation, to be called "The Kosciusko Benevolent Society of Freeland," the character and object whereof are to care for the sick and burial of the dead, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements.

JOHN D. HAYES,
24-26 Solicitor.

ESTATE OF MARTHA A. KIDDER, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

REV. C. H. KIDDER,
19-25 Wilkes-Barre, Pa.

ESTATE OF THEODORE H. BRYMER, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE A. BRYMER,
JOHN McGAHREN, Wilkes-Barre, Pa.
Attorney. 23-28

ESTATE OF ALMON MORRIS, LATE OF Pittston, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ROBERT MORRIS,
E. P. & J. V. DARLING, Pittston, Pa.
Attorneys. 23-28

ESTATE OF NANCY J. HANN, LATE OF Kingston township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EVAN FRANKLIN.
E. G. BUTLER, Town Hill, Pa.
Attorney. 24-29

ESTATE OF H. SMITH DENNIS, LATE OF Elizabeth, N. J., deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES BLACK,
W. H. HINES, Ashley, Pa.
Attorney. 24-29

AUDITOR'S NOTICE.

The undersigned, an auditor, appointed by the Court of Common Pleas of Luzerne county to distribute the proceeds of the Sheriff's sale of the real estate of H. E. Klein, hereby gives notice that he will attend to the duties of his appointment, at his office, Harvey Buildings, North Franklin street, Wilkes-Barre, Pa., on Saturday, July 12th, 1884, at 9 o'clock A. M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

JOHN B. REYNOLDS,
25-28 Auditor.

ESTATE OF JACOB CEASE, LATE OF JACKson township, deceased.

Letters of administration, *de bonis non*, upon the above named estate having been granted to the undersigned, all persons having claims against the same will present them for payment, and those indebted thereto will please make immediate payment to

GEORGE W. SHONK,
20-25 Plymouth, Pa.

ESTATE OF BENTON W. IDE, LATE OF Lehman township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARRIET E. IDE,
C. D. FOSTER, Lehman, Pa.
Attorney. 22-27

ESTATE OF W. W. DIETRICK, LATE OF Plymouth, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGIE DIETRICK,
25-30 Plymouth, Pa.

ESTATE OF PATRICK SMITH, LATE OF Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

PAUL BOHAN,
C. F. BOHAN, Pittston, Pa.
Attorney. 25-30

ESTATE OF DAVID H. DAVIS, LATE OF Nanticoke, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ANN H. DAVIS,
D. M. JONES, Nanticoke, Pa.
Attorney. 25-30

ESTATE OF SAMUEL BIGLY, LATE OF Shickshinny, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN W. BIGLY,
25-30 Shickshinny, Pa.

ESTATE OF HARRIET CAFFEY, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES W. SPAYD,
25-30 Wilkes-Barre, Pa.

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THE LUZERNE LEGAL REGISTER.

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Court of Common Pleas of Luzerne County.

DOLPH *v.* TOOLEY.

1. Where a special deputation by a constable to serve a summons is incomplete in not showing that it was made by a constable of the proper county, and the record does not show that he appeared before the justice to make his return or identify his official character, the service is irregular, and on *certiorari*—the judgment being by default—the proceedings will be reversed.

2. Warner *v.* Wells, 3 Luz. Leg. Reg. 111, followed.

Certiorari.

The opinion of the court was delivered June 2, 1884, by

RICE, P. J.—In the case of Warner *v.* Wells, 3 Luz. Leg. Reg. 111, it appeared that a summons issued "to the constable of the city of Carbondale, or any other constable in said county," that a man by the name of Robinson who called himself a constable, but who nowhere said that he was a constable of the county, gave a special deputation to the agent of the plaintiff to serve the process, and that the writ was returned by the deputy that he served the process. In reversing the judgment, Judge Conyngham said: "It is very clear that there is nothing upon the record to justify the court in sustaining as regular the service of a summons, generally directed to a class of constables as these are, by the deputy of one calling himself merely a constable, but in no part of the record said to be an officer of the county, or within the proper class, such officer not appearing personally before the justice to make his return and identify his official character, the only evidence to the justice being the production of the deputation, imperfect and incomplete upon its face and the oath of the agent and deputy of the service upon the defendant."

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In the present case, the summons was issued by a justice of the borough of Dunmore "to the constable of Scranton city, Eighth ward, of said county." On its back appears a special deputation to William Warfel to serve the writ, signed by "C. W. Roesler, constable of the Eighth ward." The writ was returned by the deputy, and the record does not show that the person designating himself "constable of the Eighth ward" appeared before the justice to identify his official character. As in the case cited, so here, the special deputation is itself incomplete, inasmuch as it does not affirmatively show that it was given by a constable of the county, and upon the authority of that case this defect cannot be helped out by presumptions. We see no substantial ground of distinction between the two cases, and the proceedings are therefore reversed and set aside.

T. J. Chase, Esq., for plaintiff.

Court of Common Pleas of Luzerne County.

GWYLLYN v. PLYMOUTH COAL CO.

Appeal from judgment of justice in suit for wages—Payment of costs—Statute—Construction of acts of April 20, 1876, and of March 2, 1868.

1. The act of April 20, 1876, P. L. 43, relating to suits for wages, does not repeal the act of March 2, 1868, P. L. 257, requiring the payment of accrued costs in appeals from the judgments of justices of the peace.

2. In Luzerne county, under act of 1868, *supra*, on appeal from the judgment of a justice, the accrued costs must be paid.

Rule to show cause why an alternative writ of mandamus shall not issue, commanding E. F. McGovern, Esq., an alderman of the city of Wilkes-Barre, to allow an appeal in said case.

The opinion of the court was delivered June 23, 1884, by

RICE, P. J.—The first section of the act of April 20, 1876, P. L. 43, provides "that, before the defendant shall be entitled to an appeal" from the judgment of a justice of the peace or alderman in a suit for wages of manual labor, he shall make a certain pre-

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scribed affidavit; and "shall be required to give good and sufficient bail for the payment of the debt and costs, to be paid when finally adjudged to be due the plaintiff by the court, in all cases for labor." The question is whether this latter clause repeals our local act of March 2, 1868, P. L. 257, which provides that justices of the peace "shall be entitled to demand and receive from the appellant and from the plaintiff desiring a transcript for entering in the Common Pleas, or other transcript in any case tried before him, before giving a transcript of appeal or other transcript, all costs that may have accrued in the said action."

It certainly does not repeal it altogether, for still the plaintiff appellant in all cases, and the defendant appellant, in all cases but suits for wages, must pay the accrued costs, and also give bail "conditioned for the payment of all costs accrued, or that may be legally recovered in such cases against the appellants." Act March 20, 1845, P. L. 188, P. D. 860, pl. 88. It adds two other conditions to an appeal by a defendant in a suit for wages to those imposed by the general law quoted: the first, an affidavit in the form prescribed; the second, bail for the debt. But what is there to indicate that a local law which made payment of the accrued costs a condition to the right of appeal in all cases, no matter what the nature of the demand, or whether the appellant was plaintiff or defendant, was intended to be repealed in so far as it applied to defendants in actions for wages? The act of 1876 contains no express declaration to that effect, and implied repeals are not favored. Where a repeal is sought to be implied from the inconsistency between a general act and a prior local or particular act, the inconsistency must be clear. The same is true where there is a general provision repealing inconsistent acts. We can discover no such inconsistency here. The act of 1868 can stand unimpaired, and the first section of the act of 1876 have full operative effect. The latter act does not undertake to particularize the costs that are to be secured, but in using terms which require bail for payment of the costs that may finally be adjudged to be due to the plaintiff upon the termination of the suit, it covers every possible case, and leaves the prior act of 1868 unaffected. The costs thus secured by a recognizance, taken in the general terms of the act, are all the costs from the inception

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of the suit in those counties where the act of 1868 does not apply, also all the costs where an appeal is taken *in forma pauperis* under the act of 1868, and the future costs that may accrue where the accrued costs have been paid on appeal.

We shall not undertake to cite the many cases in which the effect of a later act, in repealing a former one, is discussed. Many of them will be found cited in Adleman *v.* Steel, 6 Luz. Leg. Reg. 69, and Kilgore *v.* Com'lth, 13 Nor. 495. We will, however, refer to one case which seems to us to be analogous to the one now before the court. Under the act of June 16, 1836, P. L. 723, P. D. 86, pl. 56, a party appealing from an award of arbitrators was required "to pay all the costs that may have accrued," etc. By the act of Mareh 20, 1845, P. L. 188, P. D. 87, pl. 61, it was provided that, in lieu of the bail theretofore required, the bail in cases of appeals from the judgments of justices of the peace and from the awards of arbitrators should be bail absolute in double the probable amount of costs accrued and likely to accrue, "conditioned for the payment of all costs accrued, or that may be legally recovered in such cases, against the appellants." In the same year the question arose whether this latter provision repealed the provision of the act of 1836 relating to the payment of the accrued costs upon taking an appeal. It was held that it did not. Burnside, J., said: "The whole argument, in support of the rule, is based on the words *accrued, and likely to accrue in such cases.* The obvious intention of the act is, that the recognizance which the law requires is to cover the costs which may accrue on the appeal, or may be legally recovered in such cases, against the appellant. This construction will preserve the words of both acts, and will not repeal the salutary provision, for the payment of costs, in the act of 1836. The construction contended for would repeal that act by implication, which, we cannot suppose, the legislature ever intended." Merritt *v.* Smith, 2 Barr, 161.

We are clearly satisfied that the act of 1876 was not intended to, and does not, repeal our local act of 1868. In coming to this conclusion, we have not overlooked the decision of Judge Green in Ganiers' Appeal, 8 Luz. Leg. Reg. 329 (C. P. of Schuylkill county), to the contrary. We know of no other decision of the

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particular question, except that of Judge Jessup, in Rafferty *v.* McKeeby, 11 L. Bar. 150, where our conclusion is sustained by a carefully considered opinion.

The rule is discharged.

George W. Shonk, Esq., for rule.
John T. Lenahan, Esq., *contra.*

John Lynch was born November 1, 1843, at Providence, Rhode Island. His father, Patrick Lynch, was a native of Cavan, in the county of Cavan, Ireland, and who emigrated to this country in 1830. Here he remained for a few years, and then returned to Ireland, where he married, and again came to this country. He removed to Nesquehoning about 1846, and resided there until 1864, when he moved to Wilkes-Barre, where he died in 1878 at the age of seventy-five. He is remembered as a pleasant and agreeable gentleman, who had hosts of friends, and was beloved and respected by them. The mother of the subject of our sketch is Rose, daughter of the late John Caffrey, of the town of Cavan, Ireland. She is still living in this city at the age of sixty-five.

John Lynch was educated in the public schools, at the seminary at Wyalusing, Bradford county, Pa., and at Wyoming seminary, Kingston, Pa.. During his youth, he did the ordinary work of boys who have their own way to make in the world, working on the farm in the summer months, and going to school in the winter. Mr. Lynch studied law with Garrick M. Harding, and was admitted to the bar of Luzerne county November 20, 1865. He then entered the office of the late Charles Denison, and was for a year the chief clerk of the late sheriff, S. H. Puterbaugh. In 1866 he received the democratic nomination for register of wills of Luzerne county, and was triumphantly elected, Captain Harry M. Gordon being his republican opponent. Mr. Lynch was the last lawyer who filled that office, and it is to be regretted that an office so important and needing such a knowledge of the law should be filled by a layman. Upon the organization of the city of Wilkes-Barre, in 1871, Mr. Lynch was appointed a councilman-at-large for the city, and filled the office for

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three years. During the years 1873 and 1874, he was attorney for the city of Wilkes-Barre. In 1877 he was a candidate for the democratic nomination for judge, but the honor was carried off by Ex-Judge Dana. In 1879 he was nominated by the greenback-labor party for the office of judge, but was defeated by Charles E. Rice, president judge of Luzerne county, the vote standing thus: Rice, 6951; William S. McLean, democrat, 5013; and Lynch, 4539.

Mr. Lynch was married January 24, 1877, to Mary Cecelia, a native of Jenkins township, Luzerne county, and daughter of Patrick Lenahan, a native of Newport, Mayo county, Ireland. Mr. Lenahan was for many years a prosperous merchant in this city, and still resides here. The mother of Mrs. Lynch was Margaret, daughter of Hugh Durkin, a native of Tyrawley, county of Mayo, Ireland, and who died when Mrs. Lynch was but fourteen days old. Mr. and Mrs. Lynch have a family of two children—Maria Lynch and Grace Lynch. John T. Lenahan, of the Luzerne bar, is a brother of Mrs. Lynch; and James T. Lenahan, also a member of the Luzerne bar, a step-brother; Edward A. Lynch, also a member of the Luzerne bar, is a brother of John Lynch.

It may be set down as a rule, with just sufficient exceptions to make the study of them interesting, that those whose earlier years have involved the necessity of labor for a livelihood, and who subsequently fit themselves for one of the professions, bring to the practice of it the greater industry and the greater ingenuity. The rule is in keeping with that noticed in connection with our public schools that a large percentage of the best and most efficient scholars are the children of poor people. They see better things all around them than those to which in their homes they are accustomed; they see or think they see, as is usually the case, that their parents' lack of education is the cause; and there is naturally developed in them an ambition to avoid that lacking themselves, and thus attain to higher conditions.

John Lynch, as already stated, was required, as a boy, to give his summer months to labor, and his winter months of study were all the more diligently applied on that account. In school he was an apt scholar; in the office of his preceptor, when he

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had entered upon the study of the law, he was equally studious, and his bright mind was equally quick to respond to the precepts of the text books, so that he came to his examination amply prepared to pass it creditably, and to the bar fitted for real work.

He has built up a very large and lucrative practice since then, and is noted for the persistency with which he pursues a case when once he has taken hold of it, until the last expedient is exhausted. In politics, Mr. Lynch has always been a democrat, and, excepting when made a candidate for the judgeship by the greenbackers, worked in each succeeding campaign earnestly for the success of the democratic party. Many contend that his acceptance of that nomination was an error. Perhaps it was, but it is the natural ambition of almost every lawyer to set upon the woolsack, and it must be confessed that the condition of the parties in the district upon the occasion alluded to was such that almost any lawyer, similarly situated and surrounded, would have been likely to permit his natural, and in every way laudable, desire for promotion in the profession to run away with his judgment. He was not alone in assuming that the nomination tendered him offered strong hopes of success. It was not in fact until the canvass had been some time in progress that it became at all generally apparent that the result would be as it was.

Mr. Lynch takes comparatively little time from his professional duties, but has managed nevertheless to acquire a familiarity with general literature and a knowledge of men and affairs that suffice to fittingly adorn his appeals in jury trials and to make him a speaker much sought after for public occasions of a political or patriotic character.

He has just entered middle life, has a vigorous vitality, and, barring any unforeseen accident, is evidently good for many more years of usefulness both as lawyer and citizen.

Charles Leonard Bulkeley was born in Wilkes-Barre, Pennsylvania, January 15, 1843. He is a descendant of Rev. Peter Bulkeley, who was of the tenth generation from Robert Bulkeley, Esq., one of the English barons who, in the reign of King John

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(who died in 1216), was Lord of the Manor of Bulkeley, in the county Palatine of Chester. He was born at Odell, in the hundred of Willey, Bedfordshire, England, January 31, 1583. His father, Rev. Edward Bulkeley, D. D., was a faithful minister of the gospel, under whose direction his son received a learned and religious education suited to his distinguished rank. About the age of sixteen, he was admitted a member of St. John's college, at Cambridge, of which he was afterwards chosen fellow, and from which he received the degree of Bachelor of Divinity. He succeeded his father in the ministry in his native town, and enjoyed his rich benefice and estate, where he was a zealous preacher of evangelical truth about twenty years, and for the most part of the time, lived an unmolested non-conformist. At length his preaching meeting with distinguished success, and his church being very much increased, complaints were entered against him by Archbishop Laud, and he was silenced for his non-conformity to the requirements of the English church. This circumstance induced him to emigrate to New England, where he might enjoy liberty of conscience. "To New England he therefore came in the year 1635, and there, having been for a while at Cambridge, he carried a good number of planters with him up further into the *woods*, where they gathered the *twelfth church* then formed in the colony, and called the town by the name of Concord." Here he expended most of his estate for the benefit of his people, and after a laborious and useful life died March 9, 1659. Mr. Bulkeley was twice married. His first wife was Jane, daughter of Thomas Allen, of Goldington, whose nephew was lord mayor of London. By her he had twelve children, ten sons and two daughters. He lived eight years a widower, and then married Grace, a daughter of Sir Richard Chitwood. By her he had four children, three sons and one daughter. She survived him, and removed to New London, where she died April 21, 1669.

Rev. Gershom Bulkeley, son of Rev. Peter Bulkeley, the puritan settler of Concord, Mass., and his second wife, Grace Chitwood, was born December 6, 1636, graduated at Harvard college in 1655 before completing his nineteenth year. He married Sarah Chauncey, daughter of President Chauncey, of Harvard, the emigrant ancestor of the name, October 26, 1659. She was born

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in Ware, England, June 13, 1631. In the year 1661, Mr. Bulkeley located at New London as the second minister of the church in that place. Mr. Bulkeley is supposed to have removed from New London to Wethersfield in the year 1667. He was installed pastor of the church in Wethersfield the same year as successor to Rev. John Russel, who had removed to Hadley, Mass. He continued the pastor there about ten years, when he was dismissed in the year 1677. He then devoted himself to the practice of medicine and surgery. He was appointed by the general court in 1675 surgeon to the army that had been raised against the Indians, and Mr. Stone was directed to supply his place in his absence. In 1676, while the party to which he was attached was in pursuit of the enemy, he was attacked by a number of Indians near Wachuset hill, in Massachusetts, and received a wound in his thigh. Soon after, Mr. Bulkeley devoted himself to the practice of medicine, and located on the east side of the river, in what is now Glastonbury, and became quite a landowner. As a clergyman, he stood at the head of his profession, and ranked among the first in medical science. He was famous as a surveyor, pre-eminent in his time as a chemist, and highly respected as a magistrate. He died at Wethersfield December 2, 1713. On his monument is the following testimonial: "He was honorable in his descent, of rare abilities, extraordinary industry, excellent learning, master of many languages, exquisite in his skill in divinity, physic and law, and of a most exemplary and Christian life."

Rev. John Bulkeley, son of Rev. Gershom and Sarah Chauncey Bulkeley, married Patience Prentice, daughter of John and Sarah Prentice, in 1701, and was father of twelve children. He graduated at Harvard college in 1699, studied divinity, and was ordained as pastor of the church in Colchester, Conn., December 20, 1703, and took a high rank among the clergymen of his time.

Hon. Colonel John Bulkeley, son of Rev. John and Patience Prentice Bulkeley, was born April 19, 1705, graduated at Yale college in 1725, studied law, and became eminent in his profession. He was judge of probate, and held many important offices of trust, including that of colonel of the militia. He married Mary, daughter of Rev. Eliphalet Adams, M. A., pastor of the

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"First Church of Christ" in New London, Conn. He died July 21, 1753. The following inscription is from his monument: "The Hon. Judge Bulkeley, Esq., of Colchester, who for a number of years was a great honor to an uncommon variety of exalted stations in life."

Eliphalet Bulkeley, a native of Colchester, Conn., son of Hon. John and Mary Adams Bulkeley, was born August 8, 1746. He married his cousin, Anna, daughter of Major Charles Bulkeley, of New London, Conn., September 16, 1767. On the 25th May, 1773, when twenty-seven years of age, he was commissioned a captain in the Connecticut militia. When the troubles between this country and Great Britain assumed a threatening aspect, Captain Bulkeley became a firm and spirited advocate of the rights of his native land, and in March, 1776, when the American troops were collecting to drive the British from Boston, he, by his spirit and influence, led a full company of sixty men to join the standard of Washington. Having been appointed by the General Assembly of Connecticut "to be a captain of a company ordered to be raised for the defense of the colony," he was commissioned by Governor Trumbull June 10, 1776; and on May 29, 1780, he was commissioned lieutenant-colonel of the Twenty-fifth regiment of the Connecticut State militia. Colonel Bulkeley was very prominent in his day among the citizens of Colchester and of New London county. He held a commission of the peace in his native town for more than twenty years, and represented Colchester in the General Assembly of Connecticut during the years 1778, 1780, and 1788 to 1794. In the spring of 1807 he removed to Wilkes-Barre, Pa., and here he resided until his death, January 11, 1816. From May, 1814, to January, 1816, he was president of the Wilkes-Barre Borough Council.

Jonathan Bulkeley, son of Eliphalet and Anna Bulkeley, was born at Colchester, Conn., July 8, 1777. He married February 8, 1823, Elizabeth Simons, daughter of Rev. Joseph Simons, a native of Dublin, Ireland, who was a local preacher in the Methodist Episcopal Church during many years of his life. Mrs. Bulkeley was born March 28, 1806, and died July 31, 1883. She came to this country with her father when but a child. She is remembered during her long residence in this city as a remark-

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able woman in many respects, notably for her excellent business qualities, she having been active and energetic in watching her varied interests during thirty years of her life. Mr. Bulkeley became an invalid while she was still comparatively young, and this, with the ordinary cares of a family, added much to the exactions of her daily routine. Throughout her life she was a consistent member of the Methodist Episcopal church, and was the oldest member on the rolls of the Franklin street church. In his early days, Mr. Bulkeley was a midshipman in the United States navy, and was assigned to the "Trumbull," a twenty-four gun sloop, commanded by his cousin, Captain Jewett. He resigned his position in the navy in 1802, and the same year came to Wilkes-Barre, Pa., where he located and went into business. In October, 1815, he was elected and commissioned captain of the cavalry company "attached to the Second regiment, Pennsylvania militia." He held the office of sheriff of Luzerne county for three years, being commissioned by Governor Joseph Hiester October 19, 1822. He died at Wilkes-Barre March 1, 1867.

Charles Leonard Bulkeley is the youngest son of Jonathan and Elizabeth Simons Bulkeley. He was educated in the public schools of his native city and at Wyoming seminary, Kingston, Pa. He read law in the office of Asa R. Brundage, and was admitted to the bar of Luzerne county January 8, 1866, on the recommendation of Andrew T. McClintock, Stanley Woodward, and Edward P. Darling, the examining committee. In 1874 Mr. Bulkeley was elected one of the aldermen of the city of Wilkes-Barre for the term of five years, and in 1879 was re-elected for another term. Hons. Morgan Bulkeley, mayor of the city of Hartford, Conn., and W. H. Bulkeley, at one time lieutenant governor of Connecticut, and more recently the republican candidate for governor of the same state, are cousins of Charles L. Bulkeley. Asa R. Brundage, of the Luzerne county bar, is a brother-in-law, his wife being the sister of Mr. Bulkeley. Mr. Bulkeley, in his young days, taught school in the township of Hanover and in the old borough of Wilkes-Barre. He writes an excellent hand, and has been employed at various times in most, if not all, of the offices in the Court House. He never

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married, and is one of that large class of citizens who, fitted by education and otherwise to play prominent parts in the drama of life, are nevertheless content with doing their full duty in the humbler stations. It has been mentioned that he has filled important positions in the several county offices. In all these his professional training served both him and the county admirably, and as alderman or justice of peace it was of course invaluable.

There is a widespread and constantly growing belief that the law with reference to justices' courts should be changed, for all cities and populous suburban places especially, so as to provide for a lesser number of justices, require them to be learned in the law, and give them jurisdiction (subject to appeal of course) in a variety of cases now required to be tried in the Common Pleas and Quarter Sessions. A step somewhat in this direction was made by the new constitution, but affected Philadelphia and Allegheny counties only, and the innovation, although not so comprehensive as many think it should be, is believed to have been beneficient in results. It is obviously desirable to relieve the regular courts of record of the burden of as many of the minor causes, both civil and criminal, as possible, and it would be beyond question a boon to litigants in such causes if they could be determined in a court which is in continuous session. The purpose of such a change could not, however, be effected unless the persons chosen to preside in them were better fitted for the service than most of those now hit upon to act as aldermen or justices of the peace. Hence the belief that they should be men learned in the law, or if not regularly graduated and admitted practitioners, at least men with more than average understanding of the law. In such courts, men like Mr. Bulkeley would render effective service.

He is a man in middle life, of a genial and generous disposition, who has many friends, and deserves them.

Thomas Jerome Chase, a scion of an old New England family, was born in the township of Benton, Luzerne (now Lackawanna) county, Pennsylvania, May 26, 1844. He is the son of the late

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Elisha W. Chase, a native of East Greenwich, Kent county, Rhode Island, who removed with his father, Gorton Chase, when but a boy of six years of age, to Abington, Luzerne (now Lackawanna) county, Pa. He died in 1862. Gorton Chase died in 1835. His wife was Freelove Potter, of an old Rhode Island family. The maternal grandfather of T. J. Chase was Thomas Phillips, a native of the city of Bath, England, where he was born February 22, 1769. He removed to Abington in 1812, and died there in 1842. His second wife, the maternal grandmother of the subject of our sketch, was the widow of Curtis Phelps, deceased. Her maiden name was Betsey Patterson, a native of Litchfield, Conn., where she was born in 1781. She died in Benton in 1848. The mother of Mr. Chase was named Welthea. Mr. Chase was educated in the common schools of Benton, in a select school taught there for two years, and a brief term at the Madison academy, Waverly, Pa. When not at school he did the ordinary work of a farmer's son until the age of eighteen years, when he enlisted in August, 1862, as a member of company B, in the One Hundred and Thirty-second regiment, Pennsylvania volunteers. Hs participated in the battles of Antietam and Chancellorsville, and was mustered out at the expiration of his term of service in May, 1863. He entered upon the study of law in 1864 in the offices of A. H. Winton and A. A. Chase, at Scranton, and was admitted to the Luzerne county bar November 12, 1866. He then entered the office of the late E. S. M. Hill, then mayor of Scranton, and remained until April, 1867, when he removed to Nicholson, Wyoming county, Pa., and practiced until 1876, when he removed to Wilkes-Barre, where he has been in continuous practice since. While at Nicholson he was elected and served as a justice of the peace, and was also one of the school directors of that borough. During a portion of the time that he was reading law, he taught a public school in order to gain the means to continue his legal studies. Mr. Chase married September 10, 1874, Czarina A. Reynolds, daughter of S. P. Reynolds, a native of Benton. They have had one child, who died in 1879 at the age of four years.

Like a large proportion of the leading men, especially the professional men, of the Wyoming valley, Mr. Chase, it will be

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noted, traces his ancestry to the hardy pioneers of New England, and more remotely to old England. They were a hardy, courageous, and determined people these first settlers of the Yankee states, and have given to their children and their children's children qualities of mental and moral man and womanhood which go far to evidence to the present generation that such was the case. Their flight from kingly persecution for refuge in a wilderness of itself tells a tale of devotion to religious conviction, of keen appreciation of the rights of manhood, and of willingness to bear heavy burdens and incur great sacrifices for the right of opinion; and the stalwart men and the lovable, loyal women who have descended from their loins renew in their capabilities and virtues the testimony to those of so proud and self-dependent an ancestry.

Like most of the others in our series of sketches, "Tom" Chase, as he is familiarly called, is a worthy son of worthy sires. He has earned and fully merits the glorious title of "good fellow," which men apply to those in whom there is an ever present readiness to suffer almost any loss rather than harm another by so much as a thought. He was a good soldier, though but a boy at the time of his enlistment, and his superiors give willing attestation of his manly and dutiful bearing at every period of his term of service, and in every task it imposed or emergency it brought. He is a lawyer of no mean attainments, though totally indisposed to the "fuss and feathers," so to speak, which not a few in our own profession, as well as others, seek to palm off upon their patrons as evidence of deep knowledge and the ebullitions of genius. In other words, he is not a showy advocate, but is a safe adviser.

Diego John Miller Loop was born in Elmira, N.Y., February 11, 1823, and is a son of the late Peter P. Loop, a native of Elmira, Chemung county, N.Y., where he was born in 1793. He died at Belvidere, Ill., in 1854. His father, Peter Loop, jun., was one of the commissioners appointed by the Susquehanna company, September 25, 1786. Any five of the said commissioners "shall be

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a court with power, etc., etc.; *this power to determine whenever a form of internal government shall be established in that country.*"

D. J. M. Loop was educated at the Wilkes-Barre academy and at Dickinson college, Carlisle, Pa., from which he graduated in 1844, and received his degree of A. M. in 1849. He read law with Hon. E. P. Brooks, of Elmira, N. Y., and at once removed to Illinois, where he was admitted to the Supreme Court of that state in June, 1847. He spent a year in the office of General S. A. Hurlbut, in Belvidere, Ill., and in April, 1848, removed to Fort Winnebago, Wisconsin territory, now Portage City, Wis. In the fall of 1848 he was elected the first district attorney of Columbia county, Wis., which office he held for two years. He was also city clerk for the same length of time. In January, 1849, he was admitted to the Supreme Court of Wisconsin. In 1864 he removed to Pennsylvania, where he remained until 1870, having practiced in the meanwhile in Columbia, Lancaster county, and at Hazleton and Wilkes-Barre, in Luzerne county. He was admitted to the bar of the last named county December 1, 1866. He again removed west, this time to Neosho, Newton county, Mo., where he practiced until 1874. He then removed to Joplin, Jasper county, Mo., where he remained until 1877. During a year of the time that he was at Joplin, he was elected the city judge. In 1879 he removed to Galena, Cherokee county, Kan. In July, 1880, he removed to Waverly, Tioga county, N. Y. In April, 1882, he again returned to Pennsylvania, and is now practicing at Nanticoke, in this county.

The mother of Mr. Loop is Eliza Irene, daughter of the late General William Ross, sen., who was born in New London, Conn., March 29, 1761, and emigrated to Wyoming about 1775. The day previous to the "massacre" Mr. Ross was with the army in its march to Exeter, where the Hardings had been murdered, and would have been in the battle but that his older brothers needed his arms. At the flight the family were scattered, passing through the wilderness by different paths, in a state of extreme privation and suffering, Mr. Ross and his mother taking the lower or Nescopeck way. Soon after the coming in of Spalding's company they returned. Having a taste for military affairs, he rose by regular gradations from major to brigade

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inspector and general in the militia. For twenty years he held the commission of a magistrate. In 1812 he was chosen to represent the district composed of Luzerne and Northumberland counties in the senate of the state.

With the surrender of the sword of Cornwallis peace suceeded the revolutionary strife, but not in Wyoming. The Indian border feud and the question whether Pennsylvania or Connecticut should rule, still continued to agitate the valley of Wyoming. Timothy Pickering, a New England man by birth, clothed with official power by the state and invested with all the county offices, was sent here to pacify and heal up the local strife. It only aggravated the Connecticut settlers; they invaded his home, took him prisoner by night, and carried him away captive. He was rescued by General, then Captain, William Ross, at the head of a force of state militia, who received a serious wound in the struggle which for some time was regarded mortal. He was rewarded by the Supreme Executive Council of Pennsylvania with a sword bearing the following inscription:

"CAPTAIN WILLIAM ROSS:

"The Supreme Executive Council present this mark of their approbation acquired by your firmness in support of the laws of the commonwealth on the 4th of July, 1788.

"CHARLES BIDDLE, Sec'y."

General Ross in his will states that he desires his sword "to be kept and preserved by my said son (William S. Ross) during his life, and after his decease to descend to, and be kept and preserved by, my oldest male descendant from time to time forever." Under the above clause the sword is now in the possession of William Ross Maffet, of this city, son of Samuel Maffet and Caroline Ann Ross Maffet. Samuel Maffet was a prominent citizen of Wilkes-Barre and the proprietor of the *Susquehanna Democrat*, which he established in 1810 with the following motto: "The support of the state governments in all their rights is the most competent administration for our domestic institutions and the surest bulwark against anti-republican tendencies." It was the organ of the democratic party, and was of the same size as the *Gleaner*, being eleven by seventeen inches. Mr. Maffet learned

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his trade as a printer with John Binns, at Northumberland and Philadelphia, whose name is familiar to every lawyer as the author of Binns' Justice. As an evidence of the esteem in which Mr. Maffet was held by his employer we insert the following letter:

"JULY 6, 1809.

"D'R SAMUEL: This day puts a period to the time for which you were bound to me. In all the time you have been with me you have conducted yourself with propriety; never swearing, lying, or neglecting your master's business. I enclose you a check for 50$ as an evidence of my entire approbation of your conduct. Through life conduct yourself as you have conducted while with me and you will secure, because you will deserve, the esteem and respect of the worthy and the good. Continue where you are and do as you have done and we will make satisfactory arrangements. I chuse to put my opinion of you in writing as the most permanent evidence of my affectionate solicitude for your well doing. Among your sincere friends rank me, and at all times calculate upon my best services.

"I am, D'r Samuel, affectionately your true friend.

"JOHN BINNS.

"Mr. SAMUEL MAFFET."

From 1815 to 1821 Mr. Maffet was register and recorder of Luzerne county, by appointment of Governors Snyder and Findlay respectively, and from February 8, 1821, to 1824, he was prothonotary, clerk of the Court of Quarter Sessions and Oyer and Terminer, and clerk of the Orphans' Court by appointment of Governors Heister and Shulze respectively. He was ensign from August 1, 1814, and captain from May 22, 1818 (each commission being for seven years), of the eighth company of the second regiment of the militia of Pennsylvania, his commissions being signed by Governor Snyder and Governor Findlay.

Samuel Maffet was a native of Linden, Lycoming county, Pa., where he was born July 7, 1789. He died in Wilkes-Barre August 15, 1825. His father, John Maffet, was a native of Duncannon, Tyrone county, Ireland, and emigrated to America in 1774. The widow of Samuel Maffet married, February 3, 1828, Elisha Atherton. Eliza Ross Miner, wife of Charles A. Miner, of

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this city, was their only child. Mr. Miner represented the city of Wilkes-Barre in the legislature of Pennsylvania from 1875 to 1880.

Mr. Ross was a strong-minded man; he had studied human nature in the school of active life to great advantage, and performed the duties of all the various stations to which he was called with intelligence and integrity. Having lived to the good old age of eighty-two years, on August 9, 1842, he closed his active and honorable life. Every fitting demonstration of respect was paid to his remains, the court adjourning to attend his funeral. The wife of General Ross was Elizabeth, daughter of Samuel Sterling and Elizabeth Perkins, his wife, who was born November 3, 1768, and died at Wilkes-Barre May 16, 1816. Lieutenant Perrin Ross, who was born July 4, 1748, and Jeremiah Ross, born January 6, 1759, both of whom were slain at the massacre of Wyoming, were brothers of General Ross. General Ross was the son of Jeremiah Ross, (son of Joseph Ross and Sarah Utley Ross, his wife), who was born July 26, 1721, and died at Wilkes-Barre February 8, 1777. His wife was Ann Paine, whom he married October 31, 1744. She died at Wilkes-Barre March 22, 1813, aged ninety-four years.

General William Sterling Ross, who was a son of General William Ross and a brother of Eliza Irene Loop, was born in Wilkes-Barre, Pa., August 11, 1802. He died on July 11, 1868, lacking just one month of being sixty-six years of age. His birth and death occurred in the same room, the southeast part of the Ross family mansion, erected of oak materials, frame and clapboards, by Timothy Pickering, in the year 1787. He was commissioned associate judge of the courts of the county in 1830, as the successor of Hon. Jesse Fell, which office he retained until 1839—the time of the adoption of the amended constitution of the state. The duties of this office were discharged with much credit to himself and the entire approbation of the bar and the community at large. For a long succession of years he was a member of the borough council and generally its presiding officer. Quite as long he was a director and general manager of the Easton and Wilkes-Barre Turnpike Company, down to 1840 the only great thoroughfare leading easterly to the seaboard from

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the Susquehanna. He was for many years a director in the Wyoming Bank and at the time of his death the president. He was also the president of the Wyoming Insurance Company at his decease, and was also a director in the following corporations: The Wilkes-Barre Water Company, the Wilkes-Barre Bridge Company, the Wyoming Historical and Geological Society, and the Home for Friendless Children. He was also a member of the vestry of St. Stephen's church. Probably no one of General Ross's contemporaries had more to do with the various local associations of the town for a third of a century than he had, and he was remarkably punctual in his duties in all the labors these associations demanded and required of him. He represented the Luzerne district in the senate of this state during the sessions of 1845–6–7. The last year of his term he was speaker of that body.

In 1861 General Ross joined the republican party (he having previously been a democrat), and was by them elected to the General Assembly for the session of 1861–2, and in this service his conduct and business capacity were marked with much ability and unblemished integrity. In 1862 he was nominated by the republican party of Pennsylvania for the office of surveyor general, but was defeated in the election by James P. Barr, of Allegheny county. He married December 1, 1825, Ruth Tripp Slocum, daughter of Joseph Slocum. The ceremony took place in the Slocum house, on the Public square. This was the first brick building in Wilkes-Barre, and was erected by Joseph Slocum in 1807. It is still standing, and is occupied by Brown's book store. Mrs. Butler remembers that her father was cautioned against building with brick, on the supposition that this material would not stand the damp climate of the valley. That his judgment to the contrary was not in error is shown by the present condition of the brick walls, which are in perfect condition after an exposure to the "malarial dampness" of seventy-seven years. The ceremony was performed by the Rev. Enoch Huntington, who was pastor of St. Stephen's Episcopal church from 1824 to 1827.

Mrs. Loop, the mother of the subject of our sketch, was born August 25, 1799, and was married to Peter P. Loop in 1820.

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She is still living, and resides at Rochester, N. Y. Rev. Dewitt Clinton Loop, of the Protestant Episcopal church, is a brother of D. J. M. Loop, as is also Edward Sterling Loop, for many years cashier of the Wyoming bank at Wilkes-Barre, Pa.

On September 2, 1854, D. J. M. Loop was married to Mrs. Lydia L. Peabody, *nee* Richmond, daughter of Truman Richmond, of New Milford, Conn. They have no children.

The number of places in which Mr. Loop has pursued his profession, together with his election to a judgeship in Missouri, fully attest his knowledge of the law and ability as a practitioner. He comes, as the foregoing record shows, of good stock, both by his father and his mother, and gives evidence of his inheritance unimpaired from each, of many of the traits which bore them creditably and successfully through the numerous trying ordeals to which life in the Wyoming valley in the earlier days was subject. He is not so well known individually, for reasons that will be obvious to the readers of these lines, as many of the attorneys practicing at the Luzerne bar, but with all who do know him he is a favorite as a lawyer, a citizen, and a man. Upon the basis of a liberal education he has builded a general knowledge of men and affairs invaluable in the legal profession and contributive to those capacities which make men most useful in a community and appreciated for their companionship by their fellow men.

BOOK NOTICE.

FEDERAL DECISIONS. Cases argued and determined in the Supreme Circuit and District Courts of the United States. Arranged by Wm. G. Myer. Volume III., pp. 1109. The Gilbert Book Co., St Louis.

The third volume of this series of decisions lies before us. Several weeks ago we reviewed the general plan of the work. The present specimen of its method bears out well what we had occasion then to say. It reports in full the important decisions,

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and satisfactorily digests the facts and law of the others from the beginning of the government to within a very short period, on the following subjects: Bailment, Banks, National Banks, Bills and Notes, Board of Exchange. This volume was, with the exception of the last title, submitted to the prior criticism of James Schouler and John W. Daniel, both authors of well-known text books, and received their approval for excellent judgment as to the digested cases and those omitted but reported in brief. To this we can add nothing. We call the profession's attention to the book, and again recommend it as an acquisition to a legal library well worth having.

Court of Common Pleas of Luzerne County.

IN RE LUNACY OF TRUXTON BENEDICT.

Lunacy—Traverse.

1. Prior to the act of May 8, 1874, no time was fixed by law within which an inquisition of lunacy must be traversed.

2. The limitation fixed by that act is three months, within which a traverse is matter of right, but after which period it is a matter resting in the discretion of the court.

3. Circumstances under which this discretion will be exercised.

Rule to show cause why traverse should not be allowed to be filed and tried.

The opinion of the court was delivered February 4, 1884, by

RICE, P. J.—Prior to the act of May 8, 1874, P. L. 122, no time was designated by law within which an inquisition of lunacy must be traversed. The limitation fixed by that act is three months, within which a traverse is a matter of right, but after which period it is a matter resting in the discretion of the court. The jurisdiction which we are called upon to exercise is not, strictly speaking, that implied power which is frequently exercised by the courts in taking off defaults, but is a discretion expressly committed to them to be exercised "under the special circum-

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stances of the case." From the very nature of the jurisdiction, it would be impossible to lay down any general rules to which all applications for its exercise must conform; but it is very clear that, if mistake of remedy, such as shown in this case, be excluded as ground for the allowance of a traverse after the expiration of three months, the purpose of the legislature to establish proper safeguards against a deprivation of the right of trial by jury by merely technical rules will be frustrated.

The inquisition was filed on January 8, 1883, and confirmed absolutely on February 5, 1883. On the 17th of February, upon the application of the respondent, a rule was granted to show cause why the confirmation should not be stricken off. The object of this rule was to enable the respondent to file a traverse, but before it was disposed of the three months slipped by. Thus the delay in filing the traverse was not intentional; the respondent endeavored to exercise his right in due time, but mistakenly applied to the court to be permitted to do so, when the statute gave him the absolute right without such permission. No one has, or can suffer by the delay, and to say that the respondent shall be deprived of the right of having the question of his sanity submitted to a jury because the counsel and the court proceeded in a wrong way to accord it to him, would be too harsh a construction of the law.

And now, to wit, February 4, 1884, the rule is made absolute, and the respondent is allowed to file a traverse within five days.

E. B. Yordy has a few more Court Rules left. They contain the rules of the Common Pleas, Orphans' Court, Quarter Sessions, Supreme Court, and Equity.

In his Abridgment, Rolle says: "Jeo aie oie mon seigneur Coke a citer two verses pur ceo de Sir Thomas Moore:

> 'Three things are to be helpt in conscience:
> Fraud, accident, and things of confidence.'"

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SHERIFF'S SALES.

Abstract of property to be sold by J. S. Oberrender, Sheriff of Luzerne county, on Saturday, July 12th, A. D. 1884, at 10 o'clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are numbered, to wit:

1

Suit of O. P. Kester and William Seiwell, executors of Jacob Bilheimer, deceased, v. Henry F. Bird.

Martin, Att'y.

All that tract of land in the township of Sugarloaf, beginning at a stone corner of a lot of late Stephen Hansknecht now owned by G. D. Klinger, thence by said Klinger's lot 16 8-10 perches to a stone, thence by same 8 perches to a stone, 3 perches to a stone, 8 perches to a stone, thence by lands of Fisher, H. B. Bowman and of Andrew Roth 81 4-10 perches to a stone, thence by lands of John Engle 10 7-10 perches to a stone, 10 5-10 perches to a stone, 10 perches to a stone, 12 perches to a stone, thence by lands of Mrs. William Hauze 12 perches to a stone on north bank of creek, and thence by Hauze 4 perches to a white pine on south bank of creek, and by same 14 7-10 perches to a stone, 4 perches to a stone, 7 4-10 perches to a stone, 4 3-10 perches to a hemlock, 20 perches to a stone corner, thence by lands of William Kaufman 100 perches to a stone, thence by lands of John Engle, a church lot and a lot of Henry Wolf 9 2-10 perches to a stone corner, thence by lot of Mary Miller 1 8-10 perches to a stone, and by same and lot of A. W. Santee 23 perches to a stone standing in a public road, thence on said road by land of Hiram Rosencrans 18 6-10 perches to a stone, thence by Rosencrans 6 3-10 perches to the place of beginning; containing 32 acres and 40 perches, more or less; improved, with a 2-story frame dwelling house and frame barn, steam and water power grist mill, and other outhouses, small orchard, the same being well watered.

2

Suit of Moses Griffiths, assignee, v. John Gallagher and Catherine Gallagher, his wife. Ricketts, Att'y.

The surface of that lot of land in the township of Wilkes-Barre, beginning on the Wilkes-Barre turnpike, thence in a northerly direction along said turnpike about 40 feet to land now or late of Owen Hughes, thence about 111 feet to a corner, thence about 40 feet to a corner, and thence about 119 feet to the place of beginning; all improved, and having erected thereon a 1½-story frame dwelling house with stone basement, and other outbuildings. 26-28

MASTER'S SALE OF REAL ESTATE OF Maria Fritz, deceased.

In pursuance of an order of the Court of Common Pleas of Luzerne county, made on the 2d day of June, 1884, in No. 1, February term, 1884, in Equity, I shall expose to public sale or outcry at the Arbitration Room, Court House, Wilkes-Barre, Pa., on Tuesday, the 8th day of July, 1884, at 10 o'clock A. M.,

All that portion or lot of land situated in Hanover township, Luzerne county, Pennsylvania, bounded and described as follows, to wit: Beginning at a point or corner on a street called South street laid out on a plan or plot of lots or land formerly owned or now owned by Elizabeth Kilmore, and where line between Nos. 13 and 14 in such land or plot intersects the northern side of said South street; thence north 41 decrees 45 minutes east, 119 feet, be the distance more or less, to the line of land embraced in the homestead lot of said Elizabeth Kilmore; thence north 48 degrees 15 minutes west, 50 feet along such line of land embraced in said homestead lot to a point or corner; thence south 41 degrees 45 minutes west, 119 feet to a point or corner on said South street, be the distance more or less; thence south 48 degrees 15 minutes east, 50 feet to the place of beginning; containing 7500 square feet of land, be the same more or less, being lot No. 14 in plot of lots already mentioned; improved, with a 2-story dwelling house and outbuildings.

TERMS OF SALE.—Fifty per cent. cash on the day of sale, and the balance thirty days thereafter, at which time a deed will be delivered for the premises to the purchaser.

S. J. STRAUSS,
Master in Chancery.
24-26

AUDITOR'S NOTICE.

The undersigned, an auditor, appointed by the Court of Common Pleas of Luzerne county to distribute the proceeds of the Sheriff's sale of the real estate of H. E. Klein, hereby gives notice that he will attend to the duties of his appointment, at his office, Harvey Buildings, North Franklin street, Wilkes-Barre, Pa., on Saturday, July 12th, 1884, at 9 o'clock A. M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

JOHN B. REYNOLDS,
25-28 Auditor.

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 546, May term, 1884. Libel in divorce a vinculo matrimonii. Esther B. Schofield, by her next friend, Henry Gilmore, *v.* George W. Schofield. The alias subpoena in the above case having been returned, "That the said George W. Schofield cannot be found in Luzerne county." You, the said George W. Schofield, respondent, are required to appear on Monday, October 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
HENRY W. DUNNING, Sheriff.
Attorney. 23-26

ORPHANS' COURT SALE.

Estate of Frederick Bach, sen., deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Saturday, the 12th day of July, A. D. 1884, at 10 o'clock A. M.

The following real estate, beginning at a corner on Canal street, in the city of Wilkes-Barre, on line of lands of Charles F. Wells, thence along said Wells' line 200 feet to lands of the estate of John R. Dean, deceased, thence along said Dean's line 29 feet to land conveyed to Ami Masterson, thence along the same 200 feet to Canal street, thence along said Canal street 29 feet to the place of beginning; containing 5800 square feet of land, more or less; whereon is erected a 2-story frame building, used as a dwelling house and saloon.

TERMS OF SALE.—$500 down, 50 per cent. of balance on confirmation of sale and delivery of deed, and the balance with interest in one year from said confirmation of sale and delivery of deed. The payment of the whole purchase money at the time of confirmation of sale and delivery of deed may be made by purchaser if desired. Deferred payments to be secured by bond and mortgage on the premises.

G. A. BACH,
M. E. WALKER, Administrator, c. t. a.
Attorney. 25-27

ORPHANS' COURT SALE.

Estate of Isaac B. Titus, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, in Shickshinny borough, on Saturday, the 19th day of July, A. D. 1884, at 2 o'clock P. M., the following real estate:

All those two lots of land in the first ward in the borough of Shickshinny, beginning at a corner of a lot on Canal street, thence easterly along land of same 150 feet, thence northerly 100 feet, thence westerly 150 feet to Canal street, thence southerly along Canal street 100 feet to the place of beginning, being lots Nos. 147 and 148 as marked on the town plot of the borough of Shickshinny; lot No. 148 has erected on same a 1½-story frame dwelling house and other buildings.

TERMS OF SALE.—$100 down, 33⅓ per cent. of balance on confirmation of sale and delivery of deed, and the balance, with the interest from confirmation, as follows; 33⅓ per cent. January 1st, 1885, and 33⅓ per cent. April 1st, 1885; purchaser to have the option of paying full amount of his bid at confirmation of sale and delivery of deed. Deferred payments to be secured by bond and mortgage on the premises.

GEO. W. YOULLS,
M. E. WALKER, Administrator.
Attorney. 25-27

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ORPHANS' COURT SALE.

Estate of James McNeal, deceased. By virtue of an order of the Orphans' Court of Luzerne county, in pursuance to the petition to sell the real estate to pay the debts of the decedent, the undersigned will expose to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Tuesday, the 22d day of July, A. D. 1884, at 2 o'clock P. M.

All that piece or parcel of land situate in the township of Salem, county of Luzerne, Pennsylvania, bounded on the north by public road leading from Berwick to Wilkes-Barre, on the west by lot of Samuel Brader, on the south by lands of Isaac McHose, on the east by lot of Joseph Schethterly; containing about 54 feet front and about 200 feet deep, more or less; all improved, with one 2-story frame dwelling house thereon.

TERMS OF SALE.—$50 down on the day of sale, and the balance on confirmation of sale and delivery of deed.

HARVEY McNEAL,
Administrator.

E. G. BUTLER,
Attorney.

26-28

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 176, January term, 1884. Libel in divore a vinculo matrimonii. Ann Thomas, by her next friend, Wm. D. Williams, *v.* John H. Thomas. The alias subpoena in the above case having been returned, "That the said John H. Thomas cannot be found in Luzerne county." You, the said John H. Thomas, respondent, are required to appear on Monday, October, 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.

GEO. W. SHONK,
Attorney.

23-26

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 174½, February term, 1884. Libel in divorce a vinculo matrimonii. Agnes M. Toshack, by her next friend William McDonald, *v.* John Toshack. The alias subpoena in the above case having been returned, "That the said John Toshack cannot be found in Luzerne county." You, the said John Toshack, respondent, are required to appear on Monday, October 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.

A. FARNHAM,
Attorney.

25-28

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Saturday, the 28th day of June, 1884, at 10 o'clock A. M., under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, for the charter of an intended corporation, to be called "The Kosciusko Benevolent Society of Freeland," the character and object whereof are to care for the sick and burial of the dead, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements.

JOHN D. HAYES,
Solicitor.

24-26

ESTATE OF MARY A. TENCH, LATE OF West Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELIZABETH TENCH,
Pittston, Pa.

24-30

ESTATE OF MARTIN KENNEDY, LATE OF Jenkins township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES O'DONNELL,
Pittston, Pa.

21-27

ESTATE OF DANIEL PRICE, LATE OF Kingston township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

J. D. COOPER,
Kingston, Pa.

22-28

ESTATE OF GRACE PAUL, SEN., LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GRACE PAUL, JUN.,
Hazleton, Pa.

22-28

ESTATE OF ISAAC B. HARNED, LATE OF Ross township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEO. F. WESLEY,
Sweet Valley, Pa.

22-28

ESTATE OF JOHN KLEIN, 2D, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

JACOB KLEIN,
Wilkes-Barre, Pa.

24-30

ESTATE OF W. W. DIETRICK, LATE OF Plymouth, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGIE DIETRICK,
Plymouth, Pa.

25-30

ESTATE OF THEODORE H. BRYMER, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE A. BRYMER,
JOHN McGAHREN, Wilkes-Barre, Pa.
Attorney.

23-28

ESTATE OF ALMON MORRIS, LATE OF Pittston, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ROBERT MORRIS,
E. P. & J. V. DARLING, Pittston, Pa.
Attorneys.

23-28

CHAS. D. FOSTER,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

WILLIAM S. McLEAN,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

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ESTATE OF NANCY J. HANN, LATE OF Kingston township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EVAN FRANKLIN.

E. G. BUTLER, Town Hill, Pa.
Attorney. 24-29

ESTATE OF H. SMITH DENNIS, LATE OF Elizabeth, N. J., deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES BLACK,

W. H. HINES, Ashley, Pa.
Attorney. 24-29

ESTATE OF ELIZA A. PRINGLE, LATE OF Kingston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. C. YOUNG,

H. B. PAYNE, Kingston, Pa.
Attorney. 22-28

ESTATE OF BENTON W. IDE, LATE OF Lehman township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARRIET E. IDE,

C. D. FOSTER, Lehman, Pa.
Attorney. 22-27

ESTATE OF PATRICK SMITH, LATE OF Pittston, deceased

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

PAUL BOHAN,

C. F. BOHAN, Pittston, Pa.
Attorney. 25-30

ESTATE OF DAVID H. DAVIS, LATE OF Nanticoke, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ANN H. DAVIS,

D. M. JONES, Nanticoke, Pa.
Attorney. 25-30

ESTATE OF HARRIET CAFFEY, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES W. SPAYD,

25-30 Wilkes-Barre, Pa.

ESTATE OF SAMUEL BIGLY, LATE OF Shickshinny, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN W. BIGLY,

25-30 Shickshinny, Pa.

ESTATE OF BRIDGET GALLAGHER, LATE of Pittston, deceased.

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LAWRENCE MOROHAN,

C. F. BOHAN, Pittston, Pa.
Attorney. 25-30

ESTATE OF CATHERINE KNAUSS, LATE of Wilkes-Barre, deceased.

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HENRY W. MONTGOMERY,

WM. C. PRICE, Wilkes-Barre, Pa.
Attorney. 26.31

ESTATE OF REBECCA S. STROUD, LATE of Dallas township, deceased,

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BARNEY STROUD,

26-31 Dallas, Pa.

ESTATE OF MARY LANDMESSER, LATE of Hazle township, deceased.

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JOHN N. LANDMESSER,

C. W. KLINE, Hazleton, Pa.
Attorney. 26-31

ESTATE OF NICOLAUS GORLITZ, LATE of Wilkes-Barre, deceased.

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JOHN BAAB,
F. J. SCHWAB,

26-31 Wilkes-Barre, Pa.

ESTATE OF ELLEN KELLEY, LATE OF Hazleton, deceased.

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HUGH B. CONAHAN,

26-31 Hazleton, Pa.

ESTATE OF MICHAEL ANGELO, LATE OF Hazleton, deceased.

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MARY ANGELO,

C. W. KLINE, Hazleton, Pa.
Attorney. 26-31

ESTATE OF ELIZABETH JAMES, LATE OF Hazle township, deceased.

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P. H. JAMES,

C. W. KLINE, Hazleton, Pa.
Attorney. 26-31

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, JULY 4, 1884. NO. 27.

Court of Quarter Sessions of Lackawanna County.

COMMONWEALTH *v.* COLE.

No discharge can be made under the act of 1883 unless the defendant has served an imprisonment of thirty days where he is confined for costs and fine under fifteen dollars, and three months where the fine is over fifteen dollars.

The opinion of the court was delivered June 20, 1884, by

HAND, J.—These are two rules granted by this court to show cause why the orders heretofore made on 28th of February, 1884, by the court, and the orders of the county commissioners directing the discharge of the above named defendant from the county jail, shall not be revoked, and defendant again committed to the custody of the sheriff to be dealt with according to law. There are a number of other similar cases in our hands for disposition, and as they are covered by the facts connected with the above two cases, we file this opinion as the rule that shall guide us in all. These are cases of discharge under the act of 13th June, 1883, and involve the proper construction of that act. At the first reading it was supposed that this act authorized, in the discretion of the court or a law judge in vacation, and of the county commissioners, the discharge of every prisoner confined in jail for non-payment of costs or fine and costs. A careful reading of the act, however, shows clearly that such was not the intention of the legislature. The act is entitled "An act to authorize the commissioners of the several counties of this commonwealth to discharge from prison all persons confined in jail without proceedings under the insolvent laws." The title of an act must now be considered with the body of the act. The body of this act

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authorizes discharges "without the delay of any proceedings under the insolvent laws." It is simply to save this delay that the discretion is given in the act to the court, judge, and county commissioners. The act was not intended to nullify the administration of justice by a general discharge of prisoners on the ground of inability to pay the fine and costs without reference to the proper imprisonment heretofore required by law. When a prisoner is sentenced to pay a fine and costs, or costs, and stand committed until the sentence be complied with, the committal to jail and the legal imprisonment is part of the sentence if the fine or costs are not paid. Now what is that imprisonment? It is as follows: first, three months when the fine is over fifteen dollars; second, when the fine is fifteen dollars or less, thirty days; third, when the imprisonment is for costs, thirty days. After the expiration of these terms, the prisoner may be discharged under the insolvent laws. When imprisonment is added to fine and costs, then it increases the time of confinement to the extent of the term of imprisonment before the prisoner can come out under the insolvent laws, as for instance, if the fine is less than fifteen dollars, then thirty days after the expiration of the term of imprisonment; if more than fifteen dollars, then three months after the term of imprisonment. The act of 1883 was not intended to remove any imprisonment, except such as was occasioned by delay of proceedings under the insolvent laws. Any discharge, therefore, before proceedings under the insolvent laws could take effect to work a discharge, is illegal and unwarranted. It is only such imprisonment as would continue by reason of the delay under the insolvent laws that the act of 1883 is intended to abridge in the discretion of the court, judge, and county commissioners. An unwarranted discharge from prison is an escape, and the prisoner may be retaken at any time by the sheriff and remanded to jail to serve out his term of imprisonment. This is fully decided by Judge Black in Schwanke v. The Sheriff, 10 Harris, 18. In the case of Hugh Cole, above stated, he was sentenced, February 21, 1884, to pay a fine of five dollars and costs and undergo an imprisonment of five days. Inasmuch as he had not served out the thirty days required before he could take the benefit of the insolvent law, the order made in his case

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is revoked, and the rule granted is made absolute, and in default of payment of costs a capias will be issued, on motion of the district attorney, to retake the defendant and commit him to the county jail until the proper term of his imprisonment is expired. The same facts are found in the case of John F. Scanlon, jun. We refer to opinion of Judge Hunter, 31 Pitts. Leg. Journal, 357, as clearly construing the act of 1883. In all similar cases, when the prisoners are unwarrantably discharged, writs of capias will be issued on application of the district attorney. We recapitulate, that no discharge can be made under the act of 1883 unless the prisoner has served an imprisonment of thirty days where he is confined for costs and fine under fifteen dollars, and three months where the fine is over fifteen dollars. We trust attorneys will not make application until such imprisonments are about to expire, and in no case without a rule to show cause, in order that the facts may be fully investigated.

Court of Common Pleas of Luzerne County.

MURRAN *v.* PLYMOUTH COAL CO.

In actions arising *ex contractu*, the defendant, under the plea of payment, may give in evidence, not only direct proof of payment, but may also prove *bargains*, the violation of which has resulted in damages.

Referee's report and exceptions.

The opinion of the court was delivered April 28, 1884, by

WOODWARD, J.—It is undoubtedly true, as claimed by the counsel for the plaintiff, that demands against a party for damages arising from acts done by him purely of a tortious nature cannot be set up as a defense to a claim founded in contract by way of defalcation. The Pennsylvania defalcation act, however, is much broader and more comprehensive than the English statutes of set-off. Here a defendant may plead payment, and, to establish his defense, may give in evidence, not only such

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direct proof of payment as receipts and accounts, but also *bargains*, arising out of the same transaction, and the violation of which has resulted in damages, the amount of which can be reduced to a certainty. See Steigleman *v.* Jeffries, 1 S. & R. 477; Gogel *v.* Jacoby, 5 S. & R. 118.

The referee, in the case before us, has found as a fact that "the plaintiff's conduct, subsequent to his call for the car, is chargeable, if not with direct disobedience, at least with plain dereliction of duty which resulted in the killing of a mule, and consequent damage to the defendant, amounting to the sum of one hundred and eighty dollars." See finding of facts No. 7, Referee's Report.

The conclusion of law reached by the referee seems to us a logical and legal sequence of his finding of facts. The plaintiff's breach of duty was a violation of the implied contract under which he was to serve his employer. This breach of duty resulted in disaster and damage to the employer. Known standards by which to measure and liquidate the amount of these damages exist, and have been applied, and the result is that the damages far exceed the plaintiff's claim. Under these circumstances, it seems to us that the direction to enter judgment for the defendants, on the ground that there was no cause of action, must be sustained. We refer, in conclusion, to Gates *v.* Preston, 41 N. Y. R. 113, and to Blair *v.* Bartlett, 75 N. Y. R. 150.

The exceptions to the report of the referee are overruled, the report is confirmed, and judgment directed accordingly.

T. R. Martin, Esq., for plaintiff.

G. L. Halsey, Esq., for defendant.

E. B. Yordy has a few more Court Rules left. They contain the rules of the Common Pleas, Orphans' Court, Quarter Sessions, Supreme Court, and Equity.

Up in arms—the midnight baby.

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SHERIFF'S SALES.

Abstract of property to be sold by J. S. Oberrender, Sheriff of Luzerne county, on Saturday, July 12th, A. D. 1884, at 10 o'clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are numbered, to wit:

1

Suit of O. P. Kester and William Seiwell, executors of Jacob Bilheimer, deceased, v. Henry F. Bird.

Martin, Att'y.

All that tract of land in the township of Sugarloaf, beginning at a stone corner of a lot of late Stephen Hausknecht now owned by G. D. Klinger, thence by said Klinger's lot 16 8-10 perches to a stone, thence by same 8 perches to a stone, 3 perches to a stone, 8 perches to a stone, thence by lands of Fisher, H. B. Bowman and of Andrew Roth 81 4-10 perches to a stone, thence by lands of John Engle 10 7-10 perches to a stone, 10 5-10 perches to a stone, 10 perches to a stone, 12 perches to a stone, thence by lands of Mrs. William Hauze 12 perches to a stone on north bank of creek, and thence by Hauze 4 perches to a white pine on south bank of creek, and by same 14 7-10 perches to a stone, 4 perches to a stone, 7 4-10 perches to a stone, 4 3-10 perches to a hemlock, 20 perches to a stone corner, thence by lands of William Kaufman 100 perches to a stone, thence by lands of John Engle, a church lot and a lot of Henry Wolf 9 2-10 perches to a stone corner, thence by lot of Mary Miller 1 8-10 perches to a stone, and by same and lot of A. W. Santee 23 perches to a stone standing in a public road, thence on said road by land of Hiram Rosencrans 18 6-10 perches to a stone, thence by Rosencrans 6 3-10 perches to the place of beginning; containing 32 acres and 40 perches, more or less; improved, with a 2-story frame dwelling house and frame barn, steam and water power grist mil., and other outhouses, small orchard, the same being well watered.

2

Suit of Moses Griffiths, assignee, v. John Gallagher and Catherine Gallagher, his wife. Ricketts, Att'y.

The surface of that lot of land in the township of Wilkes-Barre, beginning on the Wilkes-Barre turnpike, thence in a northerly direction along said turnpike about 40 feet to land now or late of Owen Hughes, thence about 111 feet to a corner, thence about 40 feet to a corner, and thence about 119 feet to the place of beginning; all improved, and having erected thereon a 2-story frame dwelling house with stone basement, and other outbuildings. 26-28

ORPHANS' COURT SALE.

Estate of James McNeal, deceased. By virtue of an order of the Orphans' Court of Luzerne county, in pursuance to the petition to sell the real estate to pay the debts of the decedent, the undersigned will expose to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Tuesday, the 22d day of July, A. D. 1884, at 2 o'clock P. M.

All that piece or parcel of land situate in the township of Salem, county of Luzerne, Pennsylvania, bounded on the north by public road leading from Berwick to Wilkes-Barre, on the west by lot of Samuel Brader, on the south by lands of Isaac McHose, on the east by lot of Joseph Schethterly; containing about 54 feet front and about 200 feet deep, more or less; all improved, with one 2-story frame dwelling house thereon.

TERMS OF SALE.—$50 down on the day of sale, and the balance on confirmation of sale and delivery of deed.

HARVEY McNEAL,
E. G. BUTLER, Administrator.
Attorney. 26-28

ESTATE OF MARY A. TENCH, LATE OF West Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELIZABETH TENCH,
24-30 Pittston, Pa.

ORPHANS' COURT SALE.

Estate of Frederick Bach, sen., deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Saturday, the 12th day of July, A. D. 1884, at 10 o'clock A. M.

The following real estate, beginning at a corner on Canal street, in the city of Wilkes-Barre, on line of lands of Charles F. Wells, thence along said Wells' line 200 feet to lands of the estate of John R. Dean, deceased, thence along said Dean's line 29 feet to land conveyed to Ami Masterson, thence along the same 200 feet to Canal street, thence along said Canal street 29 feet to the place of beginning; containing 5800 square feet of land, more or less; whereon is erected a 2-story frame building, used as a dwelling house and saloon.

TERMS OF SALE.—$500 down, 50 per cent. of balance on confirmation of sale and delivery of deed, and the balance with interest in one year from said confirmation of sale and delivery of deed. The payment of the whole purchase money at the time of confirmation of sale and delivery of deed may be made by purchaser if desired. Deferred payments to be secured by bond and mortgage on the premises.

G. A. BACH,
M. E. WALKER, Administrator, c. t. a.
Attorney. 25-27

ORPHANS' COURT SALE.

Estate of Isaac B. Titus, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, in Shickshinny borough, on Saturday, the 19th day of July, A. D. 1884, at 2 o'clock P. M., the following real estate:

All those three lots of land in the first ward in the borough of Shickshinny, beginning at a corner of a lot on Canal street, thence easterly along land of same 150 feet, thence northerly 150 feet, thence westerly 150 feet to Canal street, thence southerly along Canal street 150 feet to the place of beginning, being lots Nos. 147 and 148 as marked on the town plot of the borough of Shickshinny; lot No. 148 has erected on same a 1½-story frame dwelling house and other buildings.

TERMS OF SALE.—$100 down, 33⅓ per cent. of balance on confirmation of sale and delivery of deed, and the balance, with the interest from confirmation, as follows; 33⅓ per cent. January 1st, 1885, and 33⅓ per cent. April 1st, 1885; purchaser to have the option of paying full amount of his bid at confirmation of sale and delivery of deed. Deferred payments to be secured by bond and mortgage on the premises.

GEO. W. YOULLS,
M. E. WALKER, Administrator.
Attorney. 25-27

AUDITOR'S NOTICE.

The undersigned, an auditor, appointed by the Court of Common Pleas of Luzerne county to distribute the proceeds of the Sheriff's sale of the real estate of H. E. Klein, hereby gives notice that he will attend to the duties of his appointment, at his office, Harvey Buildings, North Franklin street, Wilkes-Barre, Pa., on Saturday, July 12th, 1884, at 9 o'clock A. M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

JOHN B. REYNOLDS,
25-28 Auditor.

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 174½, February term, 1884. Libel in divorce a vinculo matrimonii. Agnes M. Toshack, by her next friend William McDonald, v. John Toshack. The alias subpoena in the above case having been returned, "That the said John Toshack cannot be found in Luzerne county." You, the said John Toshack, respondent, are required to appear on Monday, October 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
A. FARNHAM, Sheriff.
Attorney. 25-28

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ESTATE OF NANCY J. HANN, LATE OF Kingston township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EVAN FRANKLIN.

E. G. BUTLER, Town Hill, Pa.
Attorney. 24-29

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Attorney. 26-31

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GEO. F. WESLEY,
22-28 Sweet Valley, Pa.

ESTATE OF JOHN KLEIN, 2D, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JACOB KLEIN,
24-30 Wilkes-Barre, Pa.

ESTATE OF THEODORE H. BRYMER, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE A. BRYMER,
JOHN McGAHREN, Wilkes-Barre, Pa.
Attorney. 23-28

ESTATE OF W. W. DIETRICK, LATE OF Plymouth, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGIE DIETRICK,
25-30 Plymouth, Pa.

ESTATE OF ALMON MORRIS, LATE OF Pittston, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ROBERT MORRIS,
E. P. & J. V. DARLING, Pittston, Pa.
Attorneys. 23-28

ESTATE OF E. W. MILLER, LATE OF Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EBEZENAH MILLER,
JOHN RICHARDS, Pittston, Pa.
Attorney. 27-32

ESTATE OF MARY E. HALLOCK, LATE OF Dallas township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JESSE HALLOCK,
W. S. McLEAN, Dallas, Pa.
Attorney. 27-32

W. S. PARSONS,
ALDERMAN,
WILKES-BARRE, PA.

CHAS. D. FOSTER,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

WILLIAM S. McLEAN,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, JULY 11, 1884. No. 28.

Court of Common Pleas of Luzerne County.

IN RE PETITION OF SCHOOL DIRECTORS.

School Directors—Location of School House.

In the absence of positive proof of non-conformity to the law, or fraud or corruption on the part of public officers vested with discretionary powers, the mode of exercising such powers is beyond the jurisdiction of the courts.

Report of Master, and exceptions.

The opinion of the court was delivered April 28, 1884, by

WOODWARD, J.—On the 19th November, 1883, a petition, signed by T. J. Heffernan, Michael Lynch, and Athony Kearney, three of the directors of the Second school district of the city of Wilkes-Barre and a majority of the board, was presented to the court. This petition sets forth that the Second school district now is, and for some time hitherto has been, in want of a proper and suitable school building, and that, at a regular meeting of the board of school directors for the said district, held on the first day of October, 1883, the following resolution was adopted and spread upon the minute-book of the district:

"*Resolved*, That the school directors of the Second school district of the city of Wilkes-Barre make application to the Court of Common Pleas for permission to issue bonds to the amount of ten thousand dollars, or so much thereof as may be necessary, for the erection of a new school house, T. J. Heffernan, Michael Lynch, and Anthony Kearney voting in the affirmative, P. A. Morrow voting in the negative."

The petitioners thereupon pray for a decree of the court, "that the money aforesaid, or so much thereof as may be necessary,

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may be raised by the issuing of bonds by the said district, at a rate of interest not exceeding six *per centum*, free from all taxation, and reimbursable at any period not exceeding fifteen years, and at such intermediate periods as the discretion of the board of directors may suggest."

At the same time with the petition, numerous remonstrances, signed by taxpayers of the Second school district, were filed, protesting against the action of the school board. These set forth a number of reasons against granting the decree, some of which are as follows:

First. That the proposed action of the board of directors is against and in defiance of the wishes of a large majority of the taxpayers of the district.

Secondly. That the present school buildings are large, commodious, well situated, and sufficient, and, in point of fact, will accommodate more pupils than the proposed new buildings.

The court directed the remonstrances to be filed with the petition, and appointed F. M. Nichols, Esq., an examiner, to take testimony, and report the same to the court. With the consent of all parties in interest, the examiner has also acted as master, and the report made by him embraces, not only the evidence, but also certain findings of fact and of law. This report and the exceptions thereto filed by the counsel for the remonstrants constitute the case now presented to us.

The master reduces his conclusions of law to seven statements or propositions. We do not consider it necessary to do more than express our opinion that he is substantially correct in all of them. We think, however, that the statement of the law as expressed in the third and fifth findings, is that which must control our action, and to these, therefore, we direct particular attention.

The third finding of law is as follows: "That the petitioners, in determining to erect the proposed building, and to borrow money to pay the expenses thereof, exercised discretionary powers vested by the legislature in the office they occupy."

And the fifth finding as follows: "That in the absence of positive proof of non-conformity to the law, or fraud or corruption, on the part of public officers vested with discretionary

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powers, the exercise of the said powers is beyond the jurisdiction of the courts."

The right to decide how many schools and school houses are necessary, where they shall be located, how much (within the prescribed bounds) they shall cost, and the general supervision of the public schools for all purposes, is vested by law in the school directors of every school district. The act of 21st April, 1871, Pur. 243, pl. 43, provides, that the several Courts of Common Pleas shall have power to authorize the school directors of any school district within their respective jurisdictions to borrow money for the purpose of erecting school houses to an amount not exceeding five per centum upon the last preceding triennial valuation of the property of said school district. The courts may also decree that such money shall be raised by bonds, mortgages, or other security, at any rate not exceeding eight per centum, free from taxation, and payable at any period not exceeding twenty years from the date of the decree. This act as originally passed contained a *proviso* in the following words: "Provided, that before exercising jurisdiction of the petition of the board of school directors, or the majority thereof, for such decree, the said board shall produce to the court *the consent, in writing, of a majority in number of the qualified electors of such district.*" This apparently wise *proviso* was repealed by the act of assembly of 1873, P. L. 64, so that the discretion vested in the directors as to the necessity of erecting new school houses, and of borrowing money to pay for them, so long as they do not transcend the limits fixed by the statute, is absolute and unquestionable.

The general rule of law in regard to the exercise of official discretion is thus stated in Dillon on Corporations, sec. 58: "When the law confers upon an officer power to determine upon the expediency or necessity of certain measures relating to local government, his judgment upon matters thus committed to him, while acting within the scope of his authority, cannot be controlled by the courts."

And our Pennsylvania cases recognize the same rule. In Wharton *v.* School Directors, 6 Wr. 358, the Supreme Court says: "When there is no irregularity, no neglect of duty, no excess of authority, nothing indeed but an indiscreet exercise of

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clearly granted discretion, complaints will vex the judicial ear in vain, for the judicial arm can redress no such wrong." We refer also to the opinion of Judge Rice in Ritterhouse *v.* Creasy, 2 Kulp, 241, and also to the opinion of Judge Dana in Ford *v.* The Burgess and Town Council of West Pittston, 6 Luz. Leg. Reg. 54. See also Hughes *et al. v.* School Directors, 8 Luz. Leg. Reg. 284; McCullough *v.* School Directors, 11 P. S. Rep. 476; Freeman *v.* School Directors, 37 P. S. Rep. 385.

We can find nothing in this case which, under the authorities to which we have referred, would justify us in refusing the decree which we are asked to make. As we have already intimated, the discretion vested in school directors, so long as they keep within the boundaries defined by the statutes, seems to be absolute and supreme. In the present instance, these boundaries have not been transgressed, and we have no warrant, therefore, to interfere with their discretion. We feel at liberty, however, to say that, in view of the number and character of the taxpayers who have signed the remonstrances, and the general public sentiment which seems to have been aroused against the action of the school directors, as shown by the testimony before us, it would seem to be the dictate of good citizenship for them to carefully reconsider their action, and to bear in mind the lines of the great dramatist—

> "It is excellent to have a giant's strength,
> But it is tyranous to use it like a giant."

The exceptions to master's report are overruled, the report is confirmed, and counsel are requested to prepare a decree in accordance with the recommendation therein contained.

G. M. Harding and John McGahren, Esqs., for petition.
E. G. Butler, Esq., *contra.*

E. B. Yordy has a few more Court Rules left. They contain the rules of the Common Pleas, Orphans' Court, Quarter Sessions, Supreme Court, and Equity.

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SHERIFF'S SALES.

Abstract of property to be sold by J. S. Oberrender, Sheriff of Luzerne county, on Saturday, July 12th, A. D. 1884, at 10 o'clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are numbered, to wit:

1

Suit of O. P. Kester and William Seiwell, executors of Jacob Bilheimer, deceased, v. Henry F. Bird. Martin, Att'y.

All that tract of land in the township of Sugarloaf, beginning at a stone corner of a lot of late Stephen Hausknecht now owned by G. D. Klinger, thence by said Klinger's lot 16 8-10 perches to a stone, thence by same 8 perches to a stone, 3 perches to a stone, 8 perches to a stone, thence by lands of Fisher, H. B. Bowman and of Andrew Roth 81 4-10 perches to a stone, thence by lands of John Engle 10 7-10 perches to a stone, 10 5-10 perches to a stone, 10 perches to a stone, 32 perches to a stone, thence by lands of Mrs. William Hauze 12 perches to a stone on north bank of creek, and thence by Hauze 4 perches to a white pine on south bank of creek, and by same 14 7-10 perches to a stone, 4 perches to a stone, 7 4-10 perches to a stone, 4 3-10 perches to a hemlock, 20 perches to a stone corner, thence by lands of William Kaufman 100 perches to a stone, thence by lands of John Engle, a church lot and a lot of Henry Wolf 9 2-10 perches to a stone corner, thence by lot of Mary Miller 1 8-10 perches to a stone, and by same and lot of A. W. Santee 23 perches to a stone standing in a public road, thence on said road by land of Hiram Rosencrans 18 6-10 perches to a stone, thence by Rosencrans 6 3-10 perches to the place of beginning; containing 32 acres and 40 perches, more or less; improved, with a 2-story frame dwelling house and frame barn, steam and water power grist mill, and other outhouses, small orchard, the same being well watered.

2

Suit of Moses Griffiths, assignee, v. John Gallagher and Catherine Gallagher, his wife. Ricketts, Att'y.

The surface of that lot of land in the township of Wilkes-Barre, beginning on the Wilkes-Barre turnpike, thence in a northerly direction along said turnpike about 40 feet to land now or late of Owen Hughes, thence about 111 feet to a corner, thence about 40 feet to a corner, and thence about 119 feet to the place of beginning; all improved, and having erected thereon a 1-story frame dwelling house with stone basement, and other outbuildings. 26-28

ORPHANS' COURT SALE.

Estate of Peter S. Myers, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the White Haven Hotel, in the borough of White Haven, on Friday, the 8th day of August, A. D. 1884, at 2 o'clock P. M., the following pieces of land:

1. All that lot of land on the southwardly side of Buffalo street, in the said borough of White Haven, numbered on the plan or plot thereof 32, containing in front or breadth on said street 40 feet, and extending thence southwardly of that width between parallel lines, at right angles with said Buffalo street in length or depth, 150 feet, bounded northwardly by said Buffalo street, eastwardly by Elmira street, southwardly by Hemlock street, and westwardly by lot No. 34. The improvements consist of a 2-story dwelling house, 17 x 24½ feet, with basement, and an addition or kitchen 1 story in height and 8 x 10 feet in size, one building 12 x 16 feet, 2 stories high, on lower end of lot, used as a stable, together with other outbuildings, chicken coops, pig pen, etc., all of which are in good condition.

2. All the undivided one-half interest in a tract of land, being lot No 13 in the division of Dean and Hill's land, situate in the township of Foster, being a portion of two larger tracts of land, beginning at a hemlock at the side of a spring, thence 96 perches to a post and stones in the line of Anthony Benezet, thence 160 perches to a stake and stones in line of Andrew Gangwere, thence along said line 29 perches to a heap of stones the most southwesterly corner of Andrew Gangwere, thence by lands of Martha Dean 69 perches to a post and stones in line of lot No. 12 in said allotment, and thence 169 perches to the place of beginning, and containing 104¾ acres, be the same more or less. This tract of land is in close proximity to workable veins of anthracite coal now in operation, and it is possible the coal may extend to the land herein described.

TERMS OF SALE.—25 per cent. down, balance on confirmation of sale and delivery of deed.

WILLIAM F. STREETER,
EDWIN SHORTZ, Administrator.
Attorney. 28-30

ORPHANS' COURT SALE.

Estate of James McNeal, deceased. By virtue of an order of the Orphans' Court of Luzerne county, in pursuance to the petition to sell the real estate to pay the debts of the decedent, the undersigned will expose to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Tuesday, the 22d day of July, A. D. 1884, at 2 o'clock P. M.

All that piece or parcel of land situate in the township of Salem, county of Luzerne, Pennsylvania, bounded on the north by public road leading from Berwick to Wilkes-Barre, on the west by lot of Samuel Brader, on the south by lands of Isaac McHose, on the east by lot of Joseph Schethterly; containing about 54 feet front and about 200 feet deep, more or less; all improved, with one 2-story frame dwelling house thereon.

TERMS OF SALE.—$50 down on the day of sale, and the balance on confirmation of sale and delivery of deed.

HARVEY McNEAL,
E. G. BUTLER, Administrator.
Attorney. 26-28

EXECUTOR'S SALE.

Estate of Harriet Caffey, deceased. By virtue of authority in the will of said deceased, I will expose to public sale, on the premises, 136 Jackson street, in the city of Wilkes-Barre, on Tuesday, the 29th day of July, A. D. 1884, at 2 o'clock P. M.,

All that piece of land in the Fifth ward of the city of Wilkes-Barre, beginning at a corner on Jackson street at land of Kate Sorber, thence running along the line of said Sorber's land 144¾ feet to land of Philip Steinhauer, thence along the line of land of said Steinhauer 39 feet to a corner of land of William Hoover, thence along the line of said Hoover's land 144¾ feet to said Jackson street, thence along said Jackson street 39 feet to the place of beginning; containing 5642 feet of land, be the same more or less; upon which is erected a 2-story frame house and outbuildings. There is quite a number of choice fruit trees on the lot.

TERMS OF SALE.—$250 down on the day of sale, one-third of balance in four months, one-third in eight months, and the remaining one-third in one year. Deferred payments to bear interest, and to be secured by judgment on the premises.

CHARLES W. SPAYD,
28-30 Executor.

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 174½, February term, 1884. Libel in divorce a vinculo matrimonii. Agnes M. Toshack, by her next friend William McDonald, *v.* John Toshack. The alias subpoena in the above case having been returned, "That the said John Toshack cannot be found in Luzerne county." You, the said John Toshack, respondent, are required to appear on Monday, October 6, 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
A. FARNHAM, Sheriff.
Attorney. 25-28

ESTATE OF ISAAC B. HARNED, LATE OF Ross township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEO. F. WESLEY,
22-28 Sweet Valley, Pa.

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ESTATE OF MARY A. TENCH, LATE OF West Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELIZABETH TENCH,
Pittston, Pa.

24-30

ESTATE OF NANCY J. HANN, LATE OF Kingston township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EVAN FRANKLIN.

E. G. BUTLER, Attorney.
Town Hill, Pa.

24-29

ESTATE OF H. SMITH DENNIS, LATE OF Elizabeth, N. J., deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES BLACK,
Ashley, Pa.

W. H. HINES, Attorney.

24-29

ESTATE OF ELIZA A. PRINGLE, LATE OF Kingston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. C. YOUNG,
Kingston, Pa.

H. B. PAYNE, Attorney.

22-28

ESTATE OF PATRICK SMITH, LATE OF Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

PAUL BOHAN,
Pittston, Pa.

C. F. BOHAN, Attorney.

25-30

ESTATE OF DAVID H. DAVIS, LATE OF Nanticoke, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ANN H. DAVIS,
Nanticoke, Pa.

D. M. JONES, Attorney.

25-30

ESTATE OF BRIDGET GALLAGHER, LATE of Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

LAWRENCE MOROHAN,
Pittston, Pa.

C. F. BOHAN, Attorney.

25-30

ESTATE OF CATHERINE KNAUSS, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HENRY W. MONTGOMERY,
Wilkes-Barre, Pa.

WM. C. PRICE, Attorney.

26-31

ESTATE OF HARRIET CAFFEY, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES W. SPAYD,
Wilkes-Barre, Pa.

25-30

ESTATE OF MARY LANDMESSER, LATE of Hazle township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN N. LANDMESSER,
Hazleton, Pa.

C. W. KLINE, Attorney.

26-31

ESTATE OF NICOLAUS GORLITZ, LATE of Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN BAAB,
F. J. SCHWAB,
Wilkes-Barre, Pa.

26-31

ESTATE OF MICHAEL ANGELO, LATE OF Hazleton, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY ANGELO,
Hazleton, Pa.

C. W. KLINE, Attorney.

26-31

ESTATE OF ELIZABETH JAMES, LATE OF Hazle township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

P. H. JAMES,
Hazleton, Pa.

C. W. KLINE, Attorney.

26-31

ESTATE OF ALMON MORRIS, LATE OF Pittston, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ROBERT MORRIS,
Pittston, Pa.

E. P. & J. V. DARLING, Attorneys.

23-28

ESTATE OF E. W. MILLER, LATE OF Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EBEZENAH MILLER,
Pittston, Pa.

JOHN RICHARDS, Attorney.

27-32

ESTATE OF MARY E. HALLOCK, LATE OF Dallas township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JESSE HALLOCK,
Dallas, Pa.

W. S. McLEAN, Attorney.

27-32

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AUDITOR'S NOTICE.

The undersigned, an auditor, appointed by the Court of Common Pleas of Luzerne county to distribute the proceeds of the Sheriff's sale of the real estate of H. E. Klein, hereby gives notice that he will attend to the duties of his appointment, at his office, Harvey Buildings, North Franklin street, Wilkes-Barre, Pa., on Saturday, July 12th, 1884, at 9 o'clock A. M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

JOHN B. REYNOLDS,
25-28 Auditor.

ESTATE OF REBECCA S. STROUD, LATE of Dallas township, deceased,

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BARNEY STROUD,
26-31 Dallas, Pa.

ESTATE OF ELLEN KELLEY, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HUGH B. CONAHAN,
26-31 Hazleton, Pa.

ESTATE OF SAMUEL BIGLY, LATE OF Shickshinny, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN W. BIGLY,
25-30 Shickshinny, Pa.

ESTATE OF DANIEL PRICE, LATE OF Kingston township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

J. D. COOPER,
22-28 Kingston, Pa.

ESTATE OF THEODORE H. BRYMER, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE A. BRYMER,
JOHN McGAHREN, Wilkes-Barre, Pa.
Attorney. 23-28

NOTICE IS HEREBY GIVEN, THAT AN application will be made to one of the Law Judges of Luzerne county, on Tuesday, the 5th day of August, 1884, at 10 o'clock A. M., under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, for the charter of an intended corporation, to be called the "Sobieski Guards," the character and object whereof is mutual improvement, caring for the sick and burying the dead, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements.

H. W. PALMER,
H. A. FULLER,
28-30 Solicitors.

ESTATE OF GRACE PAUL, SEN., LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GRACE PAUL, JUN.,
22-28 Hazleton, Pa.

ESTATE OF JOHN KLEIN, 2D, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

JACOB KLEIN,
24-30 Wilkes-Barre, Pa.

ESTATE OF W. W. DIETRICK, LATE OF Plymouth, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGIE DIETRICK,
25-30 Plymouth, Pa.

W. S. PARSONS,
ALDERMAN,
WILKES-BARRE, PA.

CHAS. D. FOSTER,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

WILLIAM S. McLEAN,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, JULY 18, 1884. NO. 29.

STATE REGULATION OF CORPORATE PROFITS.

Constitutional law—State regulation of corporate profits—Effect of different grants.

1. At common law a public carrier is under the restriction that its charges be reasonable, and that it do not abuse its powers. This applies also to telegraph and kindred corporations.

2. When the legislative grant is silent on the subject of charges, the right of the state to restrict them is unquestionable.

3. When the grant gives the power to the corporation to fix charges in general terms and prescribes no maximum, the right of the state to restrict charges is now settled on the ground that, in conferring upon the corporation the right to charge for the services rendered without expressly abdicating its power of control, the state must be presumed to have reserved it.

4. When the grant is subject to a maximum limit, nothing which observes the limit can be deemed abuse.

5. Corporate profits may be rightfully considered in determining the reasonableness of charges.

6. Whenever the power to amend or repeal at will has been reserved, the control of the state must be deemed practically absolute, and the corporators have only an estate at will in their franchises. But in the case of the repeal of corporate franchises, the corporators retain their property, and radical changes or repeals must be made with reference to the fundamental rules of right and justice.

7. The Dartmouth College case, 4 Wheat., held to be applicable in its full extent only to eleemosynary corporations.

[Comments by Judge Cooley, in the *North American Review*, on recent decisions in the U. S. Supreme Court.]

At the time when the Federal Constitution was adopted, municipal government in America was a very simple affair, and was managed with ease and economy through local officers, who provided for the making and repairing of roads, looked after disorderly characters, abated local nuisances, and levied rates for the few and simple public needs. When the growing population of a particular locality appeared to need larger powers of local government, the legislature granted them, but they often involved little more than the holding of fairs as a means of building up local trade, the institution of a local court for the trial of petty cases, a few simple precautions against fires, the

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employment of watchmen, provision for the streets, and authority to levy taxes under very narrow restrictions to meet the corporate expenses for these purposes. State government was more complicated, but it was vastly less so than it has since become.

Changes, the most of which have taken place within fifty years, have made everything different. The railroad has come, for good and for evil, and has displaced not only the old stage-coach, but to a large extent also the use for trade and travel of the common roads. The state and its municipalities provide the common highway and keep it in repair, and it seems therefore to be within their authority, if not their duty, now that the railway has become the chief convenience of travel and transportation, to provide that also. The use of coal gas has become common for illuminating purposes, and the proper police of all urban communities requires that the authorities should provide it, or something equivalent or better, for public streets and places. The telegraph and the telephone are to some extent superseding the post-office, and are quite as much a public necessity. The advance in sanitary science makes us acquainted with the dangers of imperfect city sewerage, and of impure water, and we are compelled to abandon the town pump, and to bring from a distance an abundant supply of pure water for domestic and public use. We also see the necessity of giving to the city population the opportunity of breathing pure air in parks which are shaded with trees and refreshed with fountains. Here are important public wants, every one of which is expensive, and must be provided for, if at all, at a cost of taxation which to our frugal ancestors would have seemed almost like confiscation.

When a public need is thus discovered or felt, the first question often is, whether it shall be met by the government directly, and at its own expense, or whether the franchise of providing for it shall be conferred upon individuals, with the privilege of making it a source of profit. The former is the method which apparently is most consistent with republican institutions, for it grants no favors, and does not complicate individual with governmental affairs. But in practice it is found subject to very serious objections. We know what some of these are, for they have been confronting us for many years, and subjecting us

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sometimes to disaster and disgrace. The cost leads to great debts, and these are commonly great calamities. The management of railways, lighting works, the telegraph, or the telephone is a business, requiring in those who take it up not only a scientific preparation and training, but also the same attention, care, prudence, economy, and circumspection which in any private business are the requisites of success. Whether in the hands of a municipality such a business will be subjected to the proper management must depend, directly or remotely, upon the annual elections. These, when honestly conducted, with exclusive regard to the proper municipal issues, are by no means certain to bring to the front men of business energy and capacity, and when they do, are not sure to put them in the places most suited to their abilities. But when municipal elections are, as now, conducted upon national issues, with which they have no concern whatever, we may take it for granted that the majority of those who seek and obtain the offices will not be men distinguished for their business qualities, or who have been found successful in the management of their own affairs. The public works of states and cities are, therefore, likely to fall into the hands of those who will not manage them with skill or with high business capacity. But what is worse is, that, so long as the practice continues of making municipal offices and places the spoils of party warfare, it must be expected, and will certainly happen, that the dominant party or its local leaders will manage from the control of public works to derive profits for themselves at the expense of the community. There seems, therefore, to be strong, if not controlling, reasons, whenever the supply of a public convenience can assume the form of a private and continuous business, for permitting it to take that form, and for granting to individuals the necessary franchise for the purpose.

But to grant such a franchise is to give a special privilege which presumably has pecuniary value. It is therefore to prefer some citizens, who are made the recipients of the grant, over citizens in general; and though this is unavoidable, it is in a sense invidious. In many cases, also, the privilege from its nature must be exclusive; and we are to have persons carrying on a business as a public agency, with the public as a customer,

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but without the competition which, in the case of ordinary business, is supposed to be the sole protection against extortionate demands. We thus have the odious features of monopoly, as the result of a grant of a public privilege; and this will be obnoxious in proportion to the opportunity it gives for unjust exactions, and to the neglect on the part of the state to provide against them.

But suppose the state, when granting the privilege, makes no provision against an extortionate use of it for the purposes of private gain, is it powerless to do so afterward? No question more important than this has hitherto demanded the attention of the country. If the state may grant irrepealable and unchangeable franchises of all sorts, we may find, after a few years of foolish or corrupt rule, that it has bartered away a large part of its ability to be useful to the people, and that, instead of existing for the equal and common good of all, it has built up privileged classes to whom the functions of government have been granted or pledged. It would be easy to imagine a state of things that might become intolerable.

When the force, effect, or binding nature of a public grant, and especially of a corporate grant, is in question, we turn spontaneously to the Dartmouth College case for the light and the law that must guide and govern us. That case has tended to fix in the public mind the impression that whatever can be obtained in the form of a legislative grant has a property character affixed to it, which entitles it to common protection with the earnings of industry and the legitimate accumulations of capital, and that it also has something of the sacredness supposed to inhere in public compacts and treaties, and must be specially guarded for that reason. The decision has been extolled beyond measure for its pre-eminent wisdom and beneficence; and it has been assumed that, without it, the protection of contracts would have been impossible, and especially that the prodigious results of corporate organization, which has done so much to enrich and improve the country, could never have been attained. But if the Dartmouth College case brought blessings, it also created alarm; the corporations protected by it acquired a greatness, wealth, and power which the political instincts of the people made them distrust and fear; and in recent constitution making, they have given

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distinct expression to the belief that a legislature with authority to tamper with corporate powers is less to be feared than a legislature with authority to grant irrepealable franchises and privileges. The revised State Constitutions of recent date have therefore taken from the legislative department the power to grant corporate charters, except subject to the unalterable condition, as a part of the contrrct, that the charter may be altered or repealed in the legislative discretion; and that condition, in the case of nearly all recent corporations, is a part of the law of their being. It has been imposed under the influence of a fear that, without it, not only were corporations likely to become too powerful for effectual control, but also that the state was in danger of stripping itself for their benefit of essential powers.

There are still some charters, however, that, having been granted without the condition, are not subject to repeal cr amendment at the legislative will; there are also important franchises in the hands of unincorporated persons. And in examining the state power to regulate charges, it seems necessary to consider it, first, as it would exist at the common law; second, under charters not repealable or amendable; and third, under charters which are subject to legislative control.

First. Of the corporations serving public ends, the most important are railways. These are chartered that they may establish the business of carrying for hire the property and the persons of those who may desire that service. This is a business well known to the common law, and has long been recognized as having a semi-public character, which made it an exception to private business in general. The law permitted persons to assume the character of common carriers only upon certain conditions, one of which was that they should carry impartially for all persons. Another condition was that they should carry property at reasonable rates;* and, in the absence of special bargain, the law, when necessary, undertook to determine what might be reasonable rates under the circumstances. But, subject to these

* Harris *v.* Packwood, 3 Taunton, 264; Oppenheim *v.* Russell, 3 Bos. & Pul. 42; Ashmole *v.* Wainwright, 2 Q. B. 837; Fitchburg R. Co. *v.* Gage, 12 Gray, 395; McDuffee *v.* Railroad Co. 52 N. H. 430; Johnston *v.* Railroad Co. 16 Fla. 623; Holford *v.* Adams, 2 Duer, 471; Streeter *v.* Railroad Co. 45 Wis. 383.

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and a few other conditions, any one might offer his services as a public carrier; he needed no state permission for the purpose. And no doubt he might build a railroad and operate it in his business if he could purchase for his track a right of way, but he would operate it under the same common law conditions which other public carriers must observe. He would therefore be under the restriction that his charges should be reasonable.

But legislative permission to build and operate a railroad is commonly a necessary requisite. Highways must be crossed, and public places intersected or occupied; and a railroad upon any of these, without permission of the state, would be a public nuisance, and subject as such to indictment and removal. It becomes necessary also to resort to the eminent domain to force sales of lands for a right of way by persons who will not voluntarily part with them, or who take advantage of the circumstances to demand exorbitant prices. But, in addition to other impediments to individual construction, the capital required for the purpose is so great that only the co-operation of many persons can secure it; and the safe and convenient method of co-operation is under corporate forms. We therefore, of necessity, have charters for railway companies.

If these companies received from the state nothing beyond the franchise to be a corporation for operating a railway, they would, when formed, become merely carriers of goods and persons under common law rules, and we need look no further to ascertain their duties and obligations. But they receive from the state many other franchises and privileges. They are permitted, as has been said, to have the aid of the eminent domain, and to occupy public streets and places. Sometimes they are favored in the matter of taxation; sometimes the power to tax is employed to aid them; and always there are exceptional rules of police for their convenience and protection. All these are special favors which they receive from the state to enable them to set up and carry on with profit their business as common carriers; and the inducement, if not the right, to grant them must be found in the fact that they are created to subserve public ends. It is quite certain that they could be given power to interfere with private property on no other ground whatever.

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We have, then, railway companies existing as common carriers, and subject to the common law obligation to make only reasonable charges. But what are reasonable charges? Reasonable prices in general are such prices as are determined by demand and competition; and they do not necessarily lose their character as reasonable, because, under the pressure of demand and in the absence of competition, they become very profitable. If, therefore, a railway corporation is to be regarded as occupying in all respects the position of a common law carrier, large profits will not necessarily determine its charges to be unreasonable. But when the company receives from the state special privileges and grants of power, on the understanding that these are conferred in the public interest and to subserve public ends, it is not by any means certain that its profits may not justly be used as a test of the reasonableness of its charges. The charter is granted for the mutual benefit of the state and the corporators; and, while it contemplates reasonable returns to the latter on their investment, it cannot fairly be understood to contemplate anything more. In determining what are such returns, all the risks to which the investment is subject are to be taken into the account; and it is obvious that these are much greater than the risks which attend the loaning of money on security. But charges can only be regulated for the future; and this must necessarily be done, either by the company itself or by the state, upon estimates of the business likely to be done and its cost. That the company could not be exclusive judge in doing this even at the common law has already been seen; and as no third power can intervene except by mutual consent, it seems to follow of necessity that the state may limit profits as well as charges. The judicial decisions go to this extent, that when the state establishes a maximum of charges, these charges are to be deemed, *prima facie*, at least, reasonable.*

The case of corporations which are created to serve public ends, in new ways and by means of new inventions and discoveries, differs from that of railroad companies in this, that their

* The Granger Cases, 94 U. S. Reports, 155, 164, 179, 180, 181; Shields *v.* Ohio, 95 U. S. Reports, 319. As to the elements of reasonable charges, see Pickford *v.* Grand Junction R. Co 10 Mee. & W. 399.

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business being new, duties and obligations of exceptional character have not been prescribed for them by the common law. A telegraph company, for example, is not a common carrier, and therefore does not come under the rules which control the carrier's business. But there is precisely the same reason why the state should regulate its business and keep its charges within the limits of reason that applies to the business of railways. The telegraph exists only by permission of the state, and is only constructed by the aid of the eminent domain. The main object in granting the aid is to promote the public convenience and welfare by means of the telegraph as a public agency; but incidentally, and as a consideration for its serivce to the public, the company is expected to make a profit for its members. If the charges that are to produce this profit may be imposed at discretion, the state is at the mercy of the agent it has created; the main purpose is subordinated to the incidental. There can never be any implication that this was the intention in any grant for a public purpose. A fair and reasonable use of the grant must always be understood, and obviously what the public shall pay for the conveniences which the grant secures for it is matter of the highest moment. It is just as much within the proper police authority of the state to keep a telegraph company from abusing its powers in the matter of charges as it is to prevent other abuses. And this may be done in strict accord with the principles of the common law, and by virtue of powers which are inherent in every sovereignty.

Second. Where charters exist which have been granted without the reservation of the power to amend or repeal, the state must abide by the grant, and if it was improvident, must suffer the consequences. All that can be done is to see that the incorporators themselves observe the conditions of the charter according to its true intent, and if they fail to do so, to forfeit it. This is the rule of constitutional law, and it is also the rule of public honor and integrity.

Charters, however, are not often their own sufficient interpreters; and the question of construction in respect to the power to make charges and accumulate profits is often troublesome. The grant of this power is sometimes subject to a maximum

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limit; and, when that is the case, nothing which observes the limit can be deemed abuse. But more often the grant is either silent on the subject of charges—in which case the corporation by implication would be empowered to fix them—or it gives the power to the corporation in general terms, and prescribes no maximum. In the first of these cases, the right of the state to restrict corporate charges is unquestionable. In the second, though long and earnestly contested, it is now well settled. The ground on which it is affirmed is, that the state, in conferring upon the corporation the right to charge for the services rendered to the public without expressly abdicating the power of control, must be understood to have reserved it. All corporate grants are to be strictly construed, and it must always be assumed that the state proposed to give nothing which it has not given in express terms, and that the grantees have bargained for and secured in express terms everything they understood they were to have. A railroad charter, therefore, which authorizes the company to establish such rates for the conveyance of persons and property, as it shall from time to time determine by its by-laws, confers the power subject to the higher authority in the state to regulate the rates itself if the circumstances shall seem to demand its interposition.*

It may become a question at some future time whether an express grant to a corporation of the exclusive right to fix its own charges is not subject, like all other corporate franchises, to the implied condition that it shall not be abused. The penalty for the abuse of franchises is forfeiture by judicial proceeding at the instance of the state; and it is conceivable that cases of such outrageous extortion and palpable injustice might occur as would justly subject a corporation to this punishment. But the remedy being severe, would be applicable in extreme cases only.

Third. Whenever, in granting corporate franchises, the power to amend or repeal at will has been reserved, the control of the state must be deemed practically absolute. It is of no importance that the charter confers upon the corporation the exclusive authority to fix its own charges, for the legislature may at any

* Ruggles *v.* People, 91 Ill. 256, recently affirmed in the Federal Supreme Court; Shields *v.* Ohio, 95 U. S. Reports, 319.

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time revoke the grant or set limits to it. The corporators have accepted it with the distinct understanding that they have only an estate at will in their franchises, and have consented to assume all risks of state power being exercised prejudicially. No contract is therefore violated, and no faith broken, when the state asserts its authority.*

It may nevertheless be a great hardship, and it may befall the corporation as well when it is blameless as when it is criminal. If corporate powers are taken away on judicial forfeiture, the judgment determines that there has been corporate misconduct deserving it; but when the legislature acts under its reserved power, it is not necessarily to be inferred that any corporate misbehavior exists or is charged. Corporate franchises are granted on considerations of state policy, and they may be taken away upon no other reason than that the legislative view of state policy has changed. At one period, we deem it wise to create state banks of issue; at another, we look upon them as needless, and proceed to legislate them out of existence, even though we make against them no complaint of failure in duty. The reason is that we have discovered a better way.

But what is the effect of the repeal of a corporate charter? The franchise to be a corporation is gone, of course, but corporate property remains. If the corporation was a water supply company, there are the buildings and machinery, the pipes in the ground, the hydrants, etc.; if it was a railroad company, there are the rolling stock, the stations, the machine shops, and the track. In either case, what is permanently under or upon the ground, and valuable chiefly for use where it is, is likely to be of far greater value than that which is movable, and which can be sold for use elsewhere. The corporation, while in existence, acquired the property and the right to use it where it has been placed; and any legislation which takes away the right to use it there according to the intent is practical confiscation. Nobody now disputes that the corporators, when their charter is taken

* McLaren *v.* Pennington, 1 Paige, 102; Crease *v.* Babcock, 23 Pick. 334; Miners' Bank *v.* United States, 1 Greene (Iowa), 553; Railroad Co. *v.* Sharp, 5 Harr. (Del.), 454; The Grange Cases, 94 U. S. Reports; Shields *v.* Ohio, 95 U. S. Reports, 319.

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away, retain their property, or that it may be subjected to the payment of corporate debts; but when the chief property value consists in the right to use what they have where it has been permanently placed, if the corporators can neither as tenants in common nor in any other capacity any longer use it themselves, or sell it to others for use, we shall be within bounds if we say that there are now within the United States several billion dollars' worth of corporate property, which, as against the action of legislative majorities, has no constitutional protection whatever. Even an amendment of corporate charters, by reducing rates below the cost of service, might be practical annihilation, and destroy, not only the value of the stock, but the means of paying corporate debts. This may in some cases be a necessary result of unfriendly legislation under the corporate system we have consented to adopt; but it must be conceded that there are serious evils in having any part of the property within the state with no protection but such as may be found in popular favor toward those who own it.

Chief-Justice Shaw said, in one case, that, "Where, under power in a charter, rights have been acquired and become vested, no amendment or alteration of the charter can take away the property or rights which have become vested under a legitimate exercise of the powers granted."* He did not profess to decide the case then before him on this principle, though he held an amendment unwarranted which was made under full reservation of power. Afterward, in an opinion by his successor in the same court, it was decided that, while the legislature might, under its power to amend, authorize a corporation to undertake new and additional enterprises of a nature similar to those embraced within the original grant of power, if the act was accepted by a majority of the stockholders in the manner provided by law, it could have no such power without the acceptance, because the effect would be to alter the charter contract between the corporation and its members.† Possibly these are to be taken as

* Commonwealth *v.* Essex Co., 13 Gray, 239, 253.

† Durfee *v.* Railroad Co., 5 Allen, 230.

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indications that, even when the power of control is reserved in the broadest terms, the courts must, if possible, find some means of reconciling radical changes or repeals with the fundamental rules of right and justice.*

It ought to be said, however, that much of the legislation which would prove injurious to corporations has right and justice distinctly in contemplation, and is promoted in the sincere belief that the public good requires it. If mischief results from its adoption, it must be attributed to error in judgment or misinformation on the part of those who enacted it. Propositions to regulate the charges of railroad companies are likely to be of this sort. Legislators are likely to think just regulation easy and simple, and in the case of passenger traffic it may be found to be so; but the charges for the transportation of property are governed by conditions which no legislation can possibly change or control, and which railroad companies must observe whatever the statute may say. The law of competition in a country politically divided like ours is an imperious and exacting master; and statutes at most can only modify its operation, while pools at most can only prevent its operating disastrously. What is a fatal impediment to its control by law is, that the states and the nation have, in respect to it, a divided power; and while it is for the interest of the nation at large to encourage the competition which favors long hauls, it is for the interest of localities to make competition most active in short hauls. A state is therefore likely to favor legislation which compels proportional charges, or something near such charges, for all distances; but this, if it could be adopted and enforced, would preclude the great through lines of New York and Pennsylvania from competing at Chicago, St. Paul, and St. Louis in the grain-carrying trade of the northwest, and would reduce such links as are wholly within a state, to the condition of mere local roads, compelled to make high charges or go into bankruptcy. But whenever state power should thus be exerted prejudiciously, it can hardly be doubted that congress would interfere, under its authority over inter-state

* See Shields *v.* Ohio, 95 U. S. Reports, 324; Sinking Fund Cases, 99 U. S. Reports, 700; San Mateo County *v.* Railroad Co., decided at the Circuit by Mr. Justice Field, and now awaiting decision in the Federal Supreme Court.

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commerce, in aid of those competitive forces which silently but steadily have forced down the charges for railway service.*

It is not alone in the matter of railway regulation that law-making is likely to be ill-advised and detrimental to both public and private interests. The supply of public conveniences to cities is commonly a monopoly, and the protection of the public against excessive charges is to be found, first, in the fact that low prices generally extend the market, and, second, in the municipal power of control. Except in very large cities, public policy requires that for supplying light or water there should be but one corporation, because one can perform the service at less rates than two or more, and, in the long run, will be certain to do so. But scheming men make periodical attacks upon corporations existing for these and similar purposes, and, with a popular cry for their watchword, they can always enlist local interest in their favor. If they succeed in obtaining a rival franchise, the subsequent history is commonly this: a war of rates for a season, and then either a sale of one franchise to the owners of the other, or a division of the territory, or an agreement upon charges. The final result is that the two supply the market at a greater cost than the one, and the additional cost is paid by the public. Whoever expects that a destructive competition is to be continued indefinitely must have a faith in the integrity and public virtue of local boards which experience scarcely justifies. The legislation which exposes a great property, invested in a public enterprise, to disastrous risks offers a direct temptation to irregular and crooked proceedings. If men solicit from a city council a franchise which they cannot legitimately make profitable, it is a natural inference that they propose either to use it as trading property or in some way to find their profit in the manipulation of future councils.

The true policy of the state is to give due and full protection to corporate property, and at the same time to insist on the

* In 1870, the average rate per mile for the transportation of a ton of freight over seven great lines of road radiating from Chicago was 2.227 cents. In 1880, it had come down by steady reduction to 1.090. On the Michigan Central, whose freights have been unaffected by legislation, the average charge for moving a ton of freight thirty miles is now about the same as the twenty-five cents which one expects to pay a truckman for moving a box of goods from one street to the next. There are roads in the country whose charters permit a charge of five cents per mile for passengers, but the exigencies of the business compel their managers to accept three.

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faithful performance of corporate duties. It is no more for its interest to invite and encourage raids on corporations than it is to countenance vast corporate profits for which no adequate return is made. In some kinds of business, competition will keep corporations within the limits of reason in their charges; in others it will not. When it will not, it may become necessary to legislate upon profits. If the business is simple, like the supply of light or water, this can be done by prescribing a tariff of rates; but sometimes a tariff of rates prescribed by law could only be mischievous. It would generally be so in railroad transportation of property, except in the case of mere local roads. Rates must yield and accommodate themselves to innumerable circumstances and contingencies, expected and unexpected; and these must be met and provided for by the governing power as they arise. No other known business requires larger technical skill, greater ability, or wider experience. And the ablest, wisest, and most experienced man would be guilty of an act of supreme folly, if, with ample power, he undertook to prescribe unbending rules for future charges. To prescribe tariffs of rates for one road, or the roads of one state, which the competitors are not obliged to observe, would be like prescribing in advance by law the movements of an army, while the enemy was at liberty to maneuver at discretion. Railroad competition is an earnest strife, if not a warfare; and experience hitherto has shown that all that can be done by common arrangements and understandings is simply to prevent the strife becoming mutually destructive.

Truth lies in a well. This is because there are no fish stories connected with well-water.

E. B. Yordy has a few more Court Rules left. They contain the rules of the Common Pleas, Orphans' Court, Quarter Sessions, Supreme Court, and Equity.

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...ANS' COURT SALE.

...ate of Peter S. Myers, deceased. By virtue ...r of the Orphans' Court of Luzerne county, ...l be exposed to public sale, at the White ...otel, in the borough of White Haven, on ...e 8th day of August, A. D. 1884, at 2 o'clock ...e following pieces of land:

...hat lot of land on the southwardly side of ...reet, in the said borough of White Haven, ...on the plan or plot thereof 32, containing in ...readth on said street 40 feet, and extending ...uthwardly of that width between parallel ...ght angles with said Buffalo street in length ...50 feet, bounded northwardly by said Buffalo ...twardly by Elmira street, southwardly by ...street, and westwardly by lot No. 34. The ...ents consist of a 2-story dwelling house, 17 x ...with basement, and an addition or kitchen ...eight and 8 x 10 feet in size, one building 12 ...stories high, on lower end of lot, used as a ...ether with other outbuildings, chicken coops, ...c., all of which are in good condition.

...e undivided one-half interest in a tract of land, ...No 13 in the division of Dean and Hill's ...te in the township of Foster, being a portion ...er tracts of land, beginning at a hemlock at ...a spring, thence 96 perches to a post and ...ne line of Anthony Benezet, thence 160 per- ...ake and stones in line of Andrew Gangwere, ...ng said line 29 perches to a heap of stones ...outhwesterly corner of Andrew Gangwere, ...lands of Martha Dean 69 perches to a post ...in line of lot No. 12 in said allotment, and ...perches to the place of beginning, and con- ...¾ acres, be the same more or less. This ...d is in close proximity to workable veins of ...coal now in operation, and it is possible the ...xtend to the land herein described.

...F SALE.—25 per cent. down, balance on ...n of sale and delivery of deed.

WILLIAM F. STREETER,
SHORTZ, Administrator.
Attorney. 28-30

...E IS HEREBY GIVEN, THAT AN ...ication will be made to one of the Law ...Luzerne county, on Tuesday, the 5th day ...1884, at 10 o'clock A. M., under the Act ...y of the Commonwealth of Pennsylvania, ...n Act to provide for the Incorporation and ...of certain Corporations," approved April ...nd the supplements thereto, for the charter ...led corporation, to be called the "Sobieski ...he character and object whereof is mutual ...nt, caring for the sick and burying the ...or these purposes to have, possess, and en- ...rights, benefits, and privileges of the said ...mbly and its supplements.

H. W. PALMER,
H. A. FULLER,
Solicitors.

...E OF HORATIO MULFORD, LATE OF ...ston township, deceased.

...estamentary upon the above named estate ...n granted to the undersigned, all persons ...said estate are requested to make payment, ...having claims or demands to present the ...out delay, to

SARAH E. MULFORD,
HENRY COURTRIGHT,
...HOEMAKER, Orange, Pa.
Attorney. 29-34

...E OF HENRY W. COHEE, LATE OF ...s township, deceased.

...of administration upon the above named ...ng been granted to the undersigned, all per- ...ted to said estate are requested to make ...and those having claims or demands to pre- ...me, without delay, to

CATHARINE W. COHEE,
...BENNETT, Plains, Pa.
Attorney. 29-34

EXECUTOR'S SALE.

Estate of Harriet Caffey, deceased. By virtue of authority in the will of said deceased, I will expose to public sale, on the premises, 136 Jackson street, in the city of Wilkes-Barre, on Tuesday, the 29th day of July, A. D. 1884, at 2 o'clock P. M.,

All that piece of land in the Fifth ward of the city of Wilkes-Barre, beginning at a corner on Jackson street at land of Kate Sorber, thence running along the line of said Sorber's land 144⅔ feet to land of Philip Steinhauer, thence along the line of land of said Steinhauer 39 feet to a corner of land of William Hoover, thence along the line of said Hoover's land 144⅔ feet to said Jackson street, thence along said Jackson street 39 feet to the place of beginning; containing 5642 feet of land, be the same more or less; upon which is erected a 2-story frame house and outbuildings. There is quite a number of choice fruit trees on the lot.

TERMS OF SALE.—$250 down on the day of sale, one-third of balance in four months, one-third in eight months, and the remaining one-third in one year. Deferred payments to bear interest, and to be secured by judgment on the premises.

CHARLES W. SPAYD,
28-30 Executor.

ESTATE OF MARY A. TENCH, LATE OF West Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELIZABETH TENCH,
24-30 Pittston, Pa.

ESTATE OF HARRIET CAFFEY, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES W. SPAYD,
25-30 Wilkes-Barre, Pa.

ESTATE OF REBECCA S. STROUD, LATE of Dallas township, deceased,

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BARNEY STROUD,
26-31 Dallas, Pa.

ESTATE OF ELLEN KELLEY, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HUGH B. CONAHAN,
26-31 Hazleton, Pa.

ESTATE OF SAMUEL BIGLY, LATE OF Shickshinny, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN W. BIGLY,
25-30 Shickshinny, Pa.

ESTATE OF JOHN KLEIN, 2D, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

JACOB KLEIN,
24-30 Wilkes-Barre, Pa.

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ESTATE OF NANCY J. HANN, LATE OF Kingston township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EVAN FRANKLIN.

E. G. BUTLER, Town Hill, Pa.
Attorney. 24-29

ESTATE OF H. SMITH DENNIS, LATE OF Elizabeth, N. J., deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES BLACK,

W. H. HINES, Ashley, Pa.
Attorney. 24-29

ESTATE OF PATRICK SMITH, LATE OF Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

PAUL BOHAN,

C. F. BOHAN, Pittston, Pa.
Attorney. 25-30

ESTATE OF DAVID H. DAVIS, LATE OF Nanticoke, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ANN H. DAVIS,

D. M. JONES, Nanticoke, Pa.
Attorney. 25-30

ESTATE OF BRIDGET GALLAGHER, LATE of Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

LAWRENCE MOROHAN,

C. F. BOHAN, Pittston, Pa.
Attorney. 25-30

ESTATE OF CATHERINE KNAUSS, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HENRY W. MONTGOMERY,

WM. C. PRICE, Wilkes-Barre, Pa.
Attorney. 26-31

ESTATE OF MARY LANDMESSER, LATE of Hazle township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN N. LANDMESSER,

C. W. KLINE, Hazleton, Pa.
Attorney. 26-31

ESTATE OF W. W. DIETRICK, LATE OF Plymouth, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGIE DIETRICK,

25-30 Plymouth, Pa.

ESTATE OF MICHAEL ANGELO, LATE OF Hazleton, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY ANGELO,

C. W. KLINE, Hazleton, Pa.
Attorney. 26-31

ESTATE OF ELIZABETH JAMES, LATE OF Hazle township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

P. H. JAMES,

C. W. KLINE, Hazleton, Pa.
Attorney. 26-31

ESTATE OF E. W. MILLER, LATE OF Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EBEZENAH MILLER,

JOHN RICHARDS, Pittston, Pa.
Attorney. 27-32

ESTATE OF MARY E. HALLOCK, LATE OF Dallas township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JESSE HALLOCK,

W. S. McLEAN, Dallas, Pa.
Attorney. 27-32

ESTATE OF JOHN CHROSTWAIT, LATE OF Ashley, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY CHROSTWAIT,

W. H. HINES, Ashley, Pa.
Attorney. 29-34

ESTATE OF JOHN HOLMES, LATE OF Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN B. SMITH,

H. B. PAYNE, Pittston, Pa.
Attorney. 29-34

ESTATE OF NICOLAUS GORLITZ, LATE of Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN BAAB,
F. J. SCHWAB,

GUSTAV HAHN, Wilkes-Barre, Pa.
Attorney. 26-31

W. S. PARSONS,

ALDERMAN,

WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

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Court of Quarter Sessions of Luzerne County.

COMMONWEALTH *v.* HADFIELD.

Criminal Law—Seduction.

1. On an indictment for seduction, in the absence of testimony in corroboration of a positive character, such as the evidence of witnesses who heard the promise, or of admissions of the defendant either oral or written, the circumstances relied on must be such as are not merely consistent with a matrimonial engagement, but such as viewed in the light of human experience, positively tend to prove the fact. Taken together, they must be consistent with no other inference.

2. Where the evidence establishes such marked attentions on the part of the defendant as raise a presumption of a promise of marriage on his part, the general fact that the lady encouraged and received these attentions is adequate to establish her assent and mutual promise.

3. It is incumbent on the commonwealth to give evidence of the "good repute" of the prosecutrix.

Rule for a new trial.

The opinion of the court was delivered September 28, 1881, by

RICE, P. J.—One reason urged for a new trial is that the defendant was convicted of seduction upon the testimony of the prosecutrix without sufficient corroborative evidence of the promise of marriage. Our statute provides "That the promise of marriage shall not be deemed established unless the testimony of the female seduced is corroborated by other evidence, either circumstantial or positive." To corroborate is to make certain, to confirm. In the absence of testimony in corroboration of a positive character, such as the evidence of witnesses who heard the promise, or of admissions of the defendant, either oral or written, the circumstances relied on must be such as are not merely consistent with a matrimonial engagement, but such as viewed in the light of human experience positively tend to prove

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the fact. They must all concur, and, taken together, must be rationally consistent with no other inference. The law has laid down no arbitrary rule as to the number of such circumstances, although it has recognized certain of them as pertinent where the issue is as to a promise of marriage. Amongst these circumstances are open, long-continued, exclusive, and particular attentions. Putting aside the testimony of the prosecutrix, there is ample testimony furnished by members of her family, and in the defendant's admissions, that, from April until in July, he visited her at frequent intervals, according to some of the witnesses nearly every evening. After that, his visits became less frequent, and ceased altogether in November. It cannot be doubted that, until July, his attentions to the prosecutrix were particular and exclusive. He took her out walking and to places of entertainment and amusement. The defendant, when asked why he went to see the prosecutrix, said: "Well, nothing more than what other young fellows go to see young ladies for, merely for company—to spend the evening; that was it. *Q.* Were you paying her attention? *A.* In what way? *Q.* Were you courting her? *A.* Yes, I was courting her." This testimony of the defendant is important: first, as an admission that his visits were not merely for an illicit purpose, but as the suitor of the prosecutrix; and second, as explaining his assumed right to criticise her conduct, as he declares that he did. It is shown further that he gave her two of his likenesses, as he says, upon her request. This taken by itself is not a circumstance of very great strength. It is nevertheless a pertinent fact, to be taken into consideration along with the other facts in the case, as showing, not the promise of marriage directly, but the nature of the attentions. Further, the visits which he made were open, at her own house, sometimes when the members of her family were present, with their knowledge, and at seasonable hours. They were so frequent as to furnish evidence that they were not mere ordinary calls which young men make on young women. But in order to convict of this offense, the evidence must establish the fact that the promise of marriage was mutual; in other words, that the woman promised to marry the man as well as the man the woman. It is urged that there is no evidence besides her own of an engage-

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ment on the part of the prosecutrix. It is argued that her declaration of the fact of an engagement to her family or friends is a circumstance missing in this case. Under certain conditions, such evidence would be admissible as a part of the *res gestae*, but it is not indispensable. In Lechey *v.* Blosser, 12 H. 405, Woodward, J., thus decided: "The plaintiff here was permitted to prove her assent by his express declarations to her sister; and in general I doubt the necessity for resorting to so equivocal a medium of proof as the opinions of witnesses even to show the plaintiff's assent; for where the evidence establishes such marked attentions on the part of the defendant as raise a presumption of a promise of marriage on his part, the general fact that the lady encouraged and received these attentions is adequate to establish her assent and mutual promise." The chief difficulty which we have had in this case is, whether the defendant's attentions were sufficiently long continued to warrant the presumption of a matrimonial engagement previous to the alleged act of seduction. But, as to this question, it is not in the province of the court to lay down an unbending rule. It must depend, to a large extent, on the circumstances and condition in life of the parties, and the habits and customs of the people, and of these the jury are the competent judges. On a careful consideration of the evidence, we cannot say that their conclusions were not warranted.

2. As another reason for a new trial, it is urged that there was no evidence given on the former trial that the prosecutrix was a female of good repute. This presents a question not free from doubt, and not settled by the authorities. We charged upon this point as follows: "The term *good repute* here is not used in the ordinary sense of the repute which every person is presumed to have in the absence of evidence to the contrary, but it is that absolutely good character which is distinguished from bad character in a neighborhood." If we were correct in this portion of our charge, then it was a fact to be proved, and not to be presumed as matter of law. It is to be presumed that the words were used in the statute for a purpose, not implied in the term seduce. To seduce is to induce to surrender chastity, but an unchaste woman has no chastity to surrender, and therefore

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cannot be seduced. If the qualifying words "good repute" were not in the statute, it might well be said that the chastity of the female is to be presumed until the contrary is shown, but it would nevertheless be a fact in issue from the very nature of the offense. Being a fact in issue, the presumption might be overcome either by proof of particular unchaste acts on the part of the woman, or lewd and wanton acts not amounting to unchastity, or by proof of her general bad character for chastity from the general speech of the people. If, with the positive qualifying words in the statute, the presumption and rules of evidence applying to the offense remain the same, then the words are useless. The construction of penal statutes is not favorable to the treating as superfluous any portion of the section which defines or limits or qualifies the offense. Especially is this not to be done where such construction would operate unfavorably to the accused. We are still of the opinion, as we were upon the trial, that the positive use of the term "good repute" was intended to avoid the application of the general presumption as to chastity to a case, which, from its very nature, is, without other proof, inconsistent with chastity. It was intended, as we conclude, to require the commonwealth to furnish some proof of the good repute, and thus to give the jury some source from which to draw the inference of previous chastity. In this respect, after a careful reconsideration, we think the testimony is deficient, and therefore accord the defendant a new trial.

The rule is made absolute.

Alfred Darte, Esq., district attorney, and William S. McLean, Esq., for commonwealth.

H. Hakes, Esq., and Hon. G. M. Harding, for defendant.

William Swan McLean was born May 27, 1842, at Summit Hill, Carbon county, Pennsylvania. His father, Alexander McLean, who was born in 1800, emigrated to America in 1819, and settled in what is now Carbon county. He was one of the pioneer coal operators in the country, and operated at Summit

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Hill until 1848, when he removed on what is now known as the McLean farm, then in Wilkes-Barre township, now in the city of Wilkes-Barre. After his removal to this county, he was extensively engaged in coal operations, not as an operator, but as a large stockholder in many of them. He was largely interested in the Wyoming Coal Company, which was incorporated in 1838, and was one of the first joint stock coal companies formed in the Wyoming valley. Mr. McLean was a native of Fernlestra, in the county of Derry, Ireland. He died March, 1868. His father was James McLean. The grandfather of Alexander McLean was Gilbert McLean. He was a native of the Isle of Skye, and was a member of the clan McLean. His wife was Margaret Dugan. He removed to Ireland about the middle of the last century. The mother of William S. McLean, and wife of Alexander McLean, was Elizabeth Swan, daughter of James Swan. She was born near Londonderry, and emigrated with her father to this country when but a child. Mr. Swan was a man of considerable note and wealth in his native land, and was intimately connected with the Irish rebellion in 1798 as a United Irishman. He emigrated to this country in 1817, and lived and died in Mauch Chunk. Rev. Hugh Swan, a presbyterian clergyman, and a brother of James, was executed by the British government for complicity in the rebellion.

W. S. McLean was educated at the Wilkes-Barre academy, of which Sylvester Dana was principal, and at Lafayette college, Easton, Pa. Mr. Dana was a lawyer, and was admitted to the bar of Luzerne county November 7, 1828. He forsook the practice, and devoted his life to the cause of education. Mr. McLean graduated in 1865, and was chosen by the faculty as the valedictorian of his class. While Mr. McLean was at college, he entered the military service in 1862 as a member of Captain Thomas W. Lynn's Company I, Fifth regiment, Pennsylvania militia. He remained in the service but a few weeks, and was discharged with his company at the expiration of the term.

Mr. McLean read law with G. Byron Nicholson, and was admitted to the bar of Luzerne county August 19, 1867. From 1866 to 1869, Mr. McLean was a member of the board of school directors of the township of Wilkes-Barre. He was also secre-

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tary of the board for the same length of time. He is and has been city attorney since 1875, and attorney for the commissioners of Luzerne county since 1883. In 1868 Mr. McLean delivered the Master's Oration at the request of the faculty of Lafayette college upon the occasion of his receiving the Master's degree. In 1879 Mr. McLean was the democratic candidate for judge of Luzerne county, but owing to the formation of the greenback-labor party, he was defeated by Charles E. Rice, president judge of Luzerne county. He is prominent in democratic circles, and in 1883 was chairman of the committee on resolutions in the democratic state convention of that year. For many years he was a director in the First National Bank of Wilkes-Barre and Wilkes-Barre Deposit Bank.

The late James McLean, a prominent coal operator in Carbon county, and the first president of the First National Bank of Wilkes-Barre, was a brother of W. S. McLean, as was also the late Samuel McLean, one of the earliest emigrants to California at the breaking out of the gold fever. He was afterwards a representative in congress for two terms from Montana territory. He was also provisional attorney-general for Colorado. He afterwards purchased a plantation in Nottoway county, Virginia, and died there in July, 1877.

George McLean, another brother, was register of the land office in Montana territory under appointment of President Johnson.

W. S. McLean was married November 23, 1871, to Annie S. Roberts, daughter of George H. Roberts, of Philadelphia. He was for many years a member of the firm of Conrad & Roberts, a prominent hardware firm in Philadelphia. George H. Roberts, jun., who was attorney-general of Nebraska for six years, and at present special counsel for the Union Pacific railroad company, residing in Nevada, is a brother of Mrs. McLean.

Mr. and Mrs. McLean have a family of three children living, George Roberts McLean, William Swan McLean, and Margaret Stevenson McLean.

There are few men better known, and fewer still more generally liked, in Wilkes-Barre than William Swan McLean. That he is an able lawyer is fully explained in his having been the nominee

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of his party for president judge, and in his occupancy of the positions of legal adviser both to the city council of Wilkes-Barre and the commissioners of Luzerne county. In the first-named of these positions, he has served continuously for nine years, and in that time has, of course, become a recognized authority in municipal law. He was for a number of years the senior partner of the firm of McLean & Jackson, during which time the firm enjoyed a collection business that was unusually extensive and profitable, and that could neither have been secured or maintained but for the energy displayed in obtaining moneys due clients, and the promptitude with which they were paid over when collected. It is not especially a credit to the profession, but is nevertheless a fact, that there are other lawyers who might have a good deal larger share of this generally lucrative line of legal business if they were not, to use the expression of a recently disgusted client, "so slow to disgorge."

Mr. McLean has been a member of the Examining committee of the Luzerne bar, and has figured in very many important causes, both in the civil and criminal courts, acquitting himself invariably as one well booked in the principles of the law, and vigorous and efficient in its practice.

He is an easy, pleasant speaker, not only in the court-room and before a jury, but on the stump, and in every political contest for years past has done good service for his party in this capacity in Luzerne and elsewhere. His always genial demeanor has secured him a widespread popularity with people in all classes and conditions of life, and his energies were conspicuously instanced in the vigorous campaign he made, in the presence of extremely dispiriting circumstances, for the judgeship, and the flattering vote he received on that occasion.

Mr. McLean is the possessor of a fair-sized collection of the works of the best authors, and, though never without legal business to attend to, manages to steal enough time from his professional duties to familiarize himself with their best thoughts. This, his favorite recreation, is an example which all who emulate will find to their advantage, professionally as well as socially.

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Andrew Hunlock was born in Kingston, Pennsylvania, May 1, 1839. He is of New England descent, from which place his great grandfather, Jonathan Hunlock, sen., emigrated at an early day, and was the first settler of Union (now Hunlock) township, where he located in 1773. Andrew's grandfather, Jonathan Hunlock, as also his father, Jameson Hunlock, were natives of Hunlock township, being born at Hunlock's Creek, Pa. The wife of Jonathan Hunlock, jun., was Mary Jameson, who was born in 1780, and died in 1818 at Hunlock's Creek, where she lies buried. She was the daughter of John Jameson, a descendent of John Jameson, who, in the year 1704, left the highlands of Scotland, of which he was a native, and sought a new home in Ireland. He settled in the town of Omagh, county of Tyrone, where he married Rosanna Irvin. He continued his residence in Ireland until 1718, when he emigrated with his family to America, landing, after a long and dangerous voyage, in the town of Boston, in the colony of Massachusetts Bay. He remained in Boston until the spring of 1719, when he removed to Voluntown, Windham county, Conn., where he purchased a tract of land, upon which he lived for many years and died. He had two brothers, Robert and Henry, both of whom emigrated to America, and landed at Philadelphia in the year 1708. John Jameson was a man of strong will and prejudices. It is said he never yielded until fully convinced of error.

"He was of that stubborn crew,
Presbyterian true blue,
Who prove their doctrine orthodox
By apostolic blows and knocks."

His son, Robert Jameson, was born in the town of Omagh, Ireland, December 25, 1714, and was four years of age when his parents came to America. In the year 1747, he married Agnes Dixon, who was also born in Ireland, and came to America when quite young with her father, Robert Dixon, and settled in Windham county, Conn. Robert Dixon was one of the committee of the Susquehanna Coal Company, as shown by the following receipt:

"Voluntown, March 30 day, A. D. 1768.

"Then received of Robert Jameson, of Voluntown, in Windham county, as he is one of the company of the purchasers of

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the Susquehanna Lands so called, the sum of nine shillings lawful money, in full complyance of the voat of said company at their meeting held at Windham by adjournment on the sixth day of January last, for one whole right or share in s'd purchase. I say rec'd by me. "ROBERT DIXON,

"One of the com'tee for s'd company."

Nathan F. Dixon, United States senator from Rhode Island from 1839 to 1842, was a descendant of the same family. In the fall of 1776, Robert Jameson and his wife, Agnes, with all their sons and daughters (except John, who had preceded them) bade farewell to their old home in Voluntown, and set out for Wyoming, on the Susquehanna. They brought with them a few articles of household furniture and an agricultural implement or two, which they conveyed in a large cart drawn by three yoke of oxen. The sons walked alongside driving the oxen and helping the cart over new and badly opened roads. The daughters, clothed in homespun, traveled afoot and drove thirty head of sheep. The journey was performed in about three tedious weeks. John, who had gone before to prepare a home, met them at Lackawaxen, and conducted them to their homely dwelling in Hanover township. Mr. Jameson, before leaving Connecticut, obtained the following passport:

"Windham, November 4, 1776.

"The bearer hereof, Mr. Robert Jameson, has been for many years an inhabitant in the town of Voluntown, in the county of Windham, and state of Connecticut, and is now on his journey, with his wife and family and family furniture, to remove to the town of Hanover, on the Susquehanna river, and is a friend to the United States of America, and has a right to remove himself and family as above. "SAM'L GRAY,

"Justice of the Peace and one of the committee of s'd Windham."

Robert Jameson lived nine or ten years after his removal to Hanover, where he died in the seventy-second year of his age of consumption, and was buried in the graveyard of the old Hanover Presbyterian church. His wife, Agnes, died in Salem township in the seventy-eighth year of her age of fever, and lies buried in the old Salem graveyard.

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John Jameson, son of Robert Jameson, preceded his father to Wyoming, where he arrived in 1773. He located himself on a tract of land in Hanover township, on the public road leading from Wilkes-Barre to Nanticoke, where he cleared several acres, and enclosed a comfortable log house containing two rooms and a half-story loft accessible by means of a ladder. The fire place was constructed without jams on the Dutch plan. The windows were of small size, with six panes or lights, and as a substitute for glass oiled paper was used. The structure compared favorably with the dwelling places of neighboring settlers, and indeed, as the logs were hewn, the edifice was considered superior to anything in the neighborhood. It was to this place he welcomed his father's family in 1776. The same year he married Abagail Alden, who came to Wyoming with her father in 1773. Early in the spring of 1776, before the family of his father arrived in Wyoming, he enlisted in a company under Captain Strong, and was elected lieutenant. The company was united with the Connecticut troops, and marched to New Jersey to unite with the army under Washington. He was also present in Plunkett's battle in December, 1775, at or near the Nanticoke dam. On the morning of July 3, 1778, he, in company with his brothers, William and Robert Jameson, and a man named Coffrin, who worked for him, left home with their rifles and joined the devoted band who encountered the invading English tories and Indians in the celebrated battle or massacre of Wyoming. Robert Jameson and James Coffrin were killed in the battle. William had the lock of his gun shot away, and was wounded. John Jameson escaped barely with his life. Hastening to his home, he found his aged father and mother, with his wife and sisters and younger brothers, anxiously awaiting news of the battle. "What news, John?" inquired the father. "We are defeated," was the reply; "Robert and Coffrin are dead, and William is wounded; the Indians are sweeping over the valley spreading fire and death in every direction, and we must fly for our safety." The Jamesons, Aldens, Hurlbuts, and other families set out at once for old Hanover, in Lancaster county. The old men, women, and children were placed in boats, and sent down the Susquehanna river. John Jameson, with his brothers, Alexander

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and Joseph, and his mother, who carried her son Samuel in her arms, performed the journey on foot to Fort Augusta, now Sunbury, Pa. They undertook to drive the cattle before them, but owing to their haste, and to the thick underwood and the almost unpassable roads or paths, they lost almost all of them. One yoke of oxen strayed into Northampton county, but were afterwards recovered. As soon as the families were safely landed in old Hanover, John Jameson returned to look after the farm and household goods. He occasionally visited Lancaster county, but the families did not come back to their homes in Wyoming until 1780. On July 8, 1782, Mr. Jameson, with his youngest brother, Benjamin, and a neighbor, Asa Chapman, started from his home in Hanover for Wilkes-Barre. Riding on horseback on the public road, and approaching the open ground of the old church at Hanover green, John Jameson observed Indians in the thickets on his right. He exclaimed "Indians," and immediately fell dead, pierced by three balls. His horse fled and left his rider on the ground, where he was afterwards found, scalped, tomahawked, and murdered. Chapman and horse were both wounded, but escaped. Mr. Chapman died a few days after. Benjamin Jameson's horse wheeled at the first fire, and carried him home in safety. They were the last men killed in Wyoming by Indians. Thus died John Jameson in the thirty-third year of his age. He possessed perseverance and great powers of endurance, and was in every respect a thorough-going pioneer. He was buried in the graveyard of the Hanover church near the spot where he was killed. We have already stated that the wife of John Jameson was Abagail Alden. She was descended from John Alden, the first of the American families of that name, and who was one of the pilgrims, who landed at Plymouth, Mass., in the year 1620. He was at that time about twenty-two years of age, consequently was born in 1598. He married Priscilla Mullins, or Molines, in 1623. The circumstances of his courtship and marriage are as follows: Captain Miles Standish had lost his wife, and very soon after her death he conceived a tender regard for Priscilla Mullins, or Molines, daughter of William Mullins, or Molines, who was also a passenger with John Alden in the Mayflower. He made known his desire to make Priscilla his

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wife to her father through John Alden, his messenger. The father made no objection, but saw his daughter must be consulted. Priscilla was called in. Alden was a man of noble form, of fair and somewhat florid complexion and engaging manners. He arose and gracefully stated to the maiden the wishes of Captain Standish. After a pause, she turned her frank and pleasant countenance on the messenger and said: "Prithee John, why do you not speak for yourself?" John blushed, and took the hint, bade farewell for the present, and communicated the result to the captain. He afterwards visited on his own account, and their nuptials were solemnized with due form. When Alden visited Cape Cod for the purpose of marrying Priscilla, as there were no horses in the colony, he went mounted on the back of a bull, which was covered with a piece of handsome broadcloth. After the ceremony was performed, John lifted Priscilla to his seat on the bull, and led her home on the ungainly animal by a rope fastened to a ring in his nose. Captain Jonathan Alden, son of Hon. John Alden, settled in Duxbury, Mass., on the ancient homestead. He married Abagail Hallet, daughter of Andrew Hallet, also of Duxbury, December 10, 1672. His wife died August 17, 1725, aged eighty-one years. Captain Jonathan Alden died February 17, 1697, and was buried under arms, and a funeral discourse was delivered by the Rev. Ichabod Wiswell, which was printed.

Andrew Alden, son of Captain Jonathan Alden and his wife, Abagail, married Lydia Stamford February 4, 1714.

Prince Alden, son of Andrew Alden and Lydia, his wife, married Mary Fitch, of New London, Conn. The first settlement in Newport township was made by Major Prince Alden in 1772 near the borough of Nanticoke. Their daughter Abagail married John Jameson. John Adams, president of the United States, and John Quincy Adams, also president, were lineally descended from Hon. John Alden in the fifth and sixth generations respectively. After the death of John Jameson, Mrs. Jameson managed her affairs with prudence and economy, and afterwards took Shubal Bidlack as a second husband. He was a grandson of Christopher Bidlack, who settled in Windham, Conn., in 1722, where he died. His son, Captain James Bidlack,

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married Abagail Fuller, and came with his family to the Wyoming valley in 1777 from Windham. Captain James Bidlack, one of his sons, commanded one of the Wilkes-Barre companies at the battle and massacre of Wyoming, and there lost his life.

Benjamin Bidlack, a brother of James, was a famous soldier in the Revolutionary war, and afterwards a noted Methodist minister of the old school. He was the father of Benjamin Alden Bidlack, who represented the county of Luzerne in the legislature of Pennsylvania in 1834 and 1835. He was elected a member of congress as a representative of Luzerne and Columbia counties in 1840, and re-elected in 1842. He was appointed by President Polk minister to the republic of New Granada, where he died. His widow, who subsequently married Thomas W. Miner, M. D., is still living. Shubal Bidlack was the third son of Captain James Bidlack, sen. On one occasion during the Pennamite and Yankee war, Mrs. Bidlack left Wyoming for Easton, where her father, Major Prince Alden, with upwards of twenty other Connecticut settlers, were confined in jail. She took a number of letters intended for the prisoners, which were carefully folded and concealed in her *roll* (the hair in those days being carefully done up in a roll) on the top of her head. As she passed along the Indian path at night, she was discovered and arrested near Bear Creek by Colonel Patterson, the Pennamite commander. The letters in her roll escaped the suspicious Pennamite, and she was permitted to pass without further molestation. She arrived safely in Easton, and communicated the state of affairs at home to her father and other prisoners. She was a member of the first Methodist class formed in Hanover, and the house of the Widow Jameson was a home for the early Methodist ministers. William Jameson, a brother of John, who was wounded at the battle of Wyoming, was murdered by the Indians in the lower part of the present city of Wilkes-Barre October 14, 1778, and was buried in the old Hanover graveyard. The mother of Andrew Hunlock was Maria Royal, daughter of the late George Royal, of Germantown, Pa. The Royal family is of English descent, and emigrated from New England to Philadelphia, where the grandparents of Mr. Hunlock resided for many years.

Mr. Hunlock was educated at Wyoming seminary. He read

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law with Lyman Hakes, and was admitted to the bar of Luzerne county November 10, 1868. He has never held any political office, but has been a trustee of the Memorial Presbyterian church of this city from its organization to the present time. For a number of years he was president of the Anthracite Savings Bank of Wilkes-Barre. He is unmarried.

Mr. Hunlock inherited a competence to which he has since, by prudent investments, added very largely. His possessions include a considerable landed estate, and the management of it consumes much of his time, both as owner and attorney. This interest has given him a familiarity with local land titles, and the general subject of real estate law, which makes him a recognized authority therein. While he husbands his wealth, and omits no fair opportunity for adding to it, Mr. Hunlock is a liberal dispenser to the needy. He has given to every charitable institution in this vicinity, and the deserving never go away from him empty-handed. These beneficences are accomplished without any ostentation whatever. He doubtless recalls the stories of the hardships his ancestry were compelled to undergo in their battles for a livelihood, and is impelled thereby to a sympathizing view of the struggles of those in this generation who have had none of previous generations to give them a start in life.

Mr. Hunlock, although not a member of any church, is a presbyterian in religious belief.

In his general demeanor, he is one of the quietest and most unobtrusive of men, but beneath his placid exterior sleeps a lion which, when awakened to fight in a righteous cause, fights as lions should. Those who infer, from his general avoidance of controversy of any kind, that there is nothing of the antagonist in him, realize that their error has been a serious one when they do provoke him to the attitude of an adversary, either in the practice of the law or out of it.

Mr. Hunlock has numerous and varied business interests in Wilkes-Barre, is a cultured gentleman, and a friend it pays to keep.

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David Morgan Jones was born in the city of New York September 2, 1843, and was prepared for college at the Scranton high school. He entered Lewisburg university, from which he graduated in 1867, and received his degree of A. M. in 1870. He was the poet of his class, and in 1870 was the poet of the Alumni society, and in 1880 delivered the address before the Literary societies of the university, his subject being William Lloyd Garrison. Mr. Jones read law with J. Merrill Linn at Lewisburg, and was admitted to the bar of Union county in August, 1868. He then removed to Luzerne county, where he was admitted a member of the bar February 27, 1869. He was professor of languages in the West Pittston seminary during a portion of the years 1868-69. During the year 1870 he was deputy treasurer of Luzerne county under G. M. Miller, treasurer, and in 1871 he was deputy clerk of the courts under George P. Richards, clerk. In 1870 he was a candidate for nomination for that office in the republican convention, but was defeated by Mr. Richards by one vote only. Mr. Jones has been in the continuous practice of his profession in Wilkes-Barre since his admission to the bar with the exception of about six months, when he practiced in the borough of Pittston. He is a ready writer and a poet of no mean merit. In 1882 a volume of his poems, entitled "Lethe and other Poems," was issued from the press of J. B. Lippincott, of Philadelphia. A poem recently written by him on Blaine, entitled "The Next President," has been inserted in the columns of the Philadelphia *Press*, the New York *Tribune*, Chicago *Herald*, the Cincinatti *Commercial Gazette*, and other metropolitan papers.

The father of the subject of our sketch is Rev. Theophilus Jones, a Baptist minister residing in this city. He was a convert of Christmas Evans, a noted Welsh divine, and was a member of his congregation when ordained to the ministry. He was one of seventeen children, and is the son of Thomas Jones, who was a well-to-do and prosperous farmer and master weaver. Rev. Mr. Jones is a native of Caerfili, Wales, where he was born in 1810, and emigrated to America in March, 1843, settling in New York city, where he had his first charge. Mr. Jones has been in the ministry for upwards of fifty years, and has preached in English

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and Welsh in many of the principal churches of his countrymen since his residence in America. He is also a fluent speaker in the English language, and has filled appointments in various English churches. He studied for the ministry in the Abergavaney Baptist college, in Wales. The mother of D. M. Jones is Mary Ann, daughter of David Morgan, who was a native of Llandilo, Caermarthanshire, Wales. Mr. Morgan was one of the gentry of Wales, and carried on an extensive tannery in connection with his landed estates. His oldest son and the brother of Mrs. Jones is Sir David Lloyd Morgan, who was knighted for eminent services in the English service, and was latterly inspector surgeon-general in charge of the Plymouth (England) hospital.

D. M. Jones married November 28, 1867, Sarah Jane, daughter of James L. Williams, of the city of Scranton, Pa. They have two children, Emily Gertrude Jones, and Theophilus Ralph Jones. Mr. Jones is a republican in politics, and has done effective work for his party in the press and as a speaker.

He is a lawyer of good parts, and has figured in not a few important causes, being a favorite adviser and advocate with those of the nationality of his parents, who are numerous in this and adjoining counties. He is of unassuming manners, and, though not an orator, is an earnest and effective pleader before a jury, as on the stump.

It is by reason of his numerous poetical efforts, however, that he is best known. Coming from a nation whose every generation is rich in song writers and song renderers, many of whom have reached the highest rungs of the ladder of distinction, Mr. Jones came naturally by his poetical inclinations, which he has assiduously cultivated, and which, as above related, have found expression in numerous productions that have been widely circulated and favorably criticised by the best judges.

Elliott Pardee Kisner was born at Hazleton, Pennsylvania, August 1, 1845, where he still resides. He has a law office in that place as well as in this city. His great grandfather, John Kisner, who died near Berwick October 4, 1804, was without

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doubt from Germany. His grandfather, Jacob Kisner, was a native of Northampton county (born 1772). He removed at an early day to Salem township, in this county, where he married Margaret, daughter of Sebastian Seybert, sen. Under Mr. Seybert's will, proved in 1810, Mrs. Kisner was devised "one hundred and fifty acres of land in Shickshinny valley," in the township of Salem. William Kisner, the father of the subject of our sketch, is a native of Salem township, where he was born January 11, 1809. He was one of the pioneers of the borough of Hazleton, and settled there over fifty years ago. He was one of the earliest employees of Ario Pardee, who was one of the pioneers in the coal business in that region, and had charge of his store, and as purchasing agent. At times it became necessary for Mr. Kisner to guarantee the purchases he made from the Salem and Huntington farmers for Mr. Pardee, as they considered him worth much more money than his employer. Since that time Mr. Pardee has become one of our millionaires. Mr. Kisner has been one of the active business men of the borough of Hazleton as merchant and banker. He was a justice of the peace for fifteen years, his first election occurring in 1843, and as such married quite a number of the early settlers of that region. It was before the day of settled ministers, and the Methodist itinerant made the circuit only once in about six weeks. He is at present president of the Hazleton Savings Bank. As a citizen, Mr. Kisner has filled all, or nearly all, the borough offices, such as councilman, school director, etc. He has been a life-long member of the Presbyterian church; and in politics is a democrat, and during the lifetime of the late Hendrick B. Wright was an active worker with him. The mother of the subject of our sketch is Ann, daughter of Sebastian Seybert, jun., and is a native of Salem township. Sebastian Sibert, sen. (now spelled Seybert), settled about 1780 in Salem township, near the mouth of Seybert's creek, about a mile west of Beach Haven. Here he built a grist mill, saw mill, fulling mill, and a distillery. The grist mill was of logs, had but one run of stones, and could grind only from four to six bushels of grain a day. The saw mill was of the old "flutter wheel" style, and would cut about one thousand feet of lumber in twenty-four hours.

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The fulling mill was of the most primitive kind; and the distillery was the best that could be built at that day. Mr. Seybert was one of a family of several brothers, who removed to Salem shortly after the Revolutionary war. Both he and his son, Sebastian, were natives of Northampton county, Pa. He was one of the wealthy men of his day, and at the time of his death, in 1810, was the owner of seven hundred acres of the best land in Salem township. His son, Sebastian Seybert, jun., succeeded him in the milling business, and added a store and blacksmith shop to the other industries named. On March 17, 1824, he was commissioned by Governor Shulze a justice of the peace for the townships of Huntington, Salem, and Union. The appointment was during good behavior, or, in other words, for life. It is to be regretted that the law was ever changed, for in those days only worthy and intelligent men were chosen. In 1833 he was elected one of the county commissioners of Luzerne county for three years.

E. P. Kisner was prepared for college at Franklin, Delaware county, N. Y. He then entered Hamilton college, Clinton, N. Y., from which he graduated in 1867. Charles E. Rice, president judge of Luzerne county, was a classmate of Mr. Kisner. He entered the law school of Columbia college, N. Y., in the fall of the same year, and from thence to the law school of the University of Pennsylvania, from which he graduated in 1869 as LL. B. His legal preceptor in Luzerne county was Edmund L. Dana, and he was admitted to the bar of the same August 16, 1869. Mr. Kisner's continuous studies caused his eyesight to fail, and for two or three years after his admission he did very little business. In 1871 he was a candidate for member of the legislature of Pennsylvania, but was defeated. In 1872 he was again a candidate for the legislature, and was elected, leading his ticket. His seat was contested, but Mr. Kisner sat in the legislature of 1873 during the session, with the exception of five days, when he was ousted, both he and his contestant receiving full pay for the session. In 1881 and 1882 he was secretary of the State Central Democratic committee. He has held no other political office. For the past ten years he has been a director of the Hazleton Savings Bank, and is at present vice-president of the same.

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The so-called Pennsylvania Dutch stock from which Mr. Kisner hails is one that has yielded many of Pennsylvania's most distinguished men. In the learned professions, in mechanics, and in political life, many of its scions have left enduring marks. For a number of years, Pennsylvania's governors were all from this source, and none whose lot it has been to preside over the destinies of this great commonwealth have shed greater lustre upon themselves or it. This origin is distinguishable in Mr. Kisner's general appearance, as also in his disposition and temperament. His legal education, as above noted, was very thorough, and, in connection with studious habits and close application since, has made him an excellent adviser. One of the most distinguished of his fellow practitioners, who has been associated with him in a number of important cases, says "he brings to his practice great energy and a clever comprehension of the essential facts in a suit, as also an admirable capacity for outlining methods of prosecution." He has an extensive, important, and lucrative practice, much of which is in the Orphans' Court, where large interests are nearly always involved, and there is, as a rule, the greatest necessity for careful preparation and continuous, industrious application to the interests of clients.

We have mentioned the fact of his having been secretary of the state committee of the democrats in the campaigns of 1881 and 1882. In this position he was a tireless and yet prudent worker, fertile of resource and fearless in execution. The chairman of the committee, W. U. Hensel, Esq., of the Lancaster bar, bears lavish tribute to the excellence of Mr. Kisner's service in that capacity. Mr. Kisner has frequently been a delegate to local and state conventions, and member of local committees of his party, and always, when acting in such capacity, has taken a leading part, contributing by his wise counsel and indomitable perseverance largely to the attainment of the object sought.

He is well up in general literature, keeps thoroughly conversant with the news of the day, drives and likes good horses, has a comfortable competence, is a cheerful companion, and, in all respects, a good citizen.

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BOOK NOTICES.

FEDERAL DECISIONS. Cases argued and determined in the Supreme Circuit and District Courts of the United States. Arranged by William G. Myer. Vol. IV., pp. 1007. The Gilbert Book Co., St. Louis.

This volume is devoted to one subject, and treats it exhaustively. Whatever our Federal Courts have said concerning bonds—whether official, municipal, corporate, or what-not—can be found here. The decisions and digest are arranged according to a well-considered analysis of the snbject. The book is divided into two great heads. Under the first—"Official and other Penal Bonds," extending over 353 pages—will be found cases on miscellaneous bonds, voluntary bonds, official bonds (their execution and breach), liabilities and release of sureties, and questions arising in this branch of the law. Under the second head—to which over 600 pages are devoted—"Municipal and other Corporate Securities"—are discussions by the most eminent of our judges of many interesting questions which are involved in the law of municipal corporations; what the powers of corporations are by which they are enabled to incur indebtedness; when cities and towns may subscribe for railroad bonds, or issue bonds to assist railroad and other public enterprises; the effect of constitutional and other prohibitions against indebtedness exceeding a certain percentum on taxable property; when recoveries may be had on invalid bonds; to what extent such instruments are negotiable; when injunctions will be awarded to prevent either the issuing or the collection of bonds; how payment may be enforced of the bonds, and of coupons separate from them; when actions may be brought upon them. Such, in brief, is the plan according to which cases have been arranged. It will be seen that this work falls but little short in comprehensiveness of a special text book. John W. Daniel, the eminent author of "Negotiable Instruments," has revised the volume, and lends to it the sanction of his certificate.

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Notwithstanding the volumes of this series appear from the press in such rapid succession, we cannot but again express our admiration for the industry and intelligence which has been applied to their preparation.

AN ESSAY ON PROFESSIONAL ETHICS. By Hon. George Sharswood, LL. D. Fifth edition. T. & J. W. Johnson & Co., Philadelphia. 1884.

This book has 214 pages, is well printed and bound. It contains a biographical sketch of the late Judge Sharswood, and is devoted to (1) Those duties which the lawyer owes to the public or commonwealth; (2) Those which are due from him to the court, his professional brethren, and his client. The subjects treated are legislation, society, class legislation, property, conservatism, constitutions, bills of rights, legislative power, *stare decisis*, judicial legislation, and jurisprudence under the first title. Under the second title it contains subjects as follows: moral principle, oath of attorney, office of attorney, fidelity to the court, fidelity to his brethren, opinion of the profession, fidelity to client, duty to study, course of study, professional compensation, contingent fees, truthfulness, fidelity to truth, high position of the profession, etc., the whole of which is fortified by authorities. The appendix contains Courvoisier's case, course of legal study, and the English bar. This book should be in the hands of not only professional gentlemen, but also in those of the general reader. It portrays the high sense which should be the character of every lawyer, and no course of legal studies is complete that does not contain a work on legal ethics. We would advise our professional brethren to send for a copy of the work, and, our word for it, it will repay its perusal.

E. B. Yordy has a few more Court Rules left. They contain the rules of the Common Pleas, Orphans' Court, Quarter Sessions, Supreme Court, and Equity.

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Court of Common Pleas of Schuylkill County.

SCHWARTZ *v.* HEPLER.

In an action of partition, where the plaintiff has filed his declaration, and the defendant has filed his plea, a summary judgment *quod partitio fiat* is improper.

Partition. Motion for judgment.

The opinion of the court was delivered June 4, 1883, by

PERSHING, P. J.—In this case the plaintiff has filed a declaration, and the defendant has appeared and filed his plea. The motion is for a summary judgment of *quod partitio fiat*, based on the language of the act of assembly. Purd. Dig. 1113. This seems to be contrary to the usual practice. Issues being joined, the parties proceed to trial as in other cases. Martin *v.* Martin, 17 S. & R. 434. The evidence as to ouster, and the question of legal or actual possession, is for the jury to pass on, exclusively. Swayze *v.* Ormsby, 2 Watts, 494. The subject is discussed at length in Lafferty *v.* Beale, 1 Miles, 51. Justice Huston said, in Martin *v.* Martin, *supra*, "When the defendant appears and pleads, and the facts of interest in the plaintiff or possession are disputed, the court generally directs an issue, and these are settled by a jury, and I think this ought always to be done in such cases."

The motion for judgment is refused.

In the reign of Charles II., Walcot was executed for the Rye House Plot; and twelve years after his execution a writ of error was brought, and his attainder reversed, because in the record of his sentence it had not been stated that his entrails should be burnt *while he was alive.*

A prisoner was convicted of a capital felony, and was sentenced to be punished by transportation. On error, the judgment was reversed because he was not sentenced to be hanged, and he was discharged.

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S' COURT SALE.

of Peter S. Myers, deceased. By virtue
the Orphans' Court of Luzerne county,
exposed to public sale, at the White
, in the borough of White Haven, on
h day of August, A. D. 1884, at 2 o'clock
lowing pieces of land:

lot of land on the southwardly side of
, in the said borough of White Haven,
the plan or plot thereof 32, containing in
lth on said street 40 feet, and extending
wardly of that width between parallel
angles with said Buffalo street in length
eet, bounded northwardly by said Buffalo
rdly by Elmira street, southwardly by
et, and westwardly by lot No. 34. The
consist of a 2-story dwelling house, 17 x
basement, and an addition or kitchen
ht and 8 x 10 feet in size, one building 12
ries high, on lower end of lot, used as a
r with other outbuildings, chicken coops,
all of which are in good condition.

divided one-half interest in a tract of land,
13 in the division of Dean and Hill's
the township of Foster, being a portion
racts of land, beginning at a hemlock at
pring, thence 96 perches to a post and
ine of Anthony Benezet, thence 160 per-
and stones in line of Andrew Gangwere,
said line 29 perches to a heap of stones
hwesterly corner of Andrew Gangwere,
ds of Martha Dean 69 perches to a post
line of lot No. 12 in said allotment, and
ches to the place of beginning, and con-
acres, be the same more or less. This
in close proximity to workable veins of
now in operation, and it is possible the
nd to the land herein described.

SALE.—25 per cent. down, balance on
f sale and delivery of deed.

WILLIAM F. STREETER,
HORTZ, Administrator.
Attorney. 28-30

R'S SALE.

f Harriet Caffey, deceased. By virtue
the will of said deceased, I will expose
on the premises, 136 Jackson street, in
kes-Barre, on Tuesday, the 29th day of
84, at 2 o'clock P. M.,

ce of land in the Fifth ward of the city
re, beginning at a corner on Jackson
f Kate Sorber, thence running along the
orber's land 144¾ feet to land of Philip
ence along the line of land of said Stein-
o a corner of land of William Hoover,
ne line of said Hoover's land 144⅔ feet
street, thence along said Jackson street
place of beginning; containing 5642 feet
e same more or less; upon which is
y frame house and outbuildings. There
ber of choice fruit trees on the lot.

ALE.—$250 down on the day of sale, one-
ce in four months, one-third in eight
the remaining one-third in one year.
nents to bear interest, and to be secured
n the premises.

CHARLES W. SPAYD,
Executor.

IS HEREBY GIVEN, THAT AN

tion will be made to the Court of Com-
Luzerne county, on Monday, the 1st day
A. D. 1884, at 10 o'clock A. M., under
sembly of the Commonwealth of Penn-
tled "An Act to provide for the Incor-
Regulation of certain Corporations," ap-
29th, 1874, and the supplements thereto,
val of the alteration of the name of the
Academy to that of the "Harry Hillman
set forth in the petition for the allowance
ion filed in said court.

E. P. & J. V. DARLING,
Solicitors.

ORPHANS' COURT SALE.

Estate of Michael Hart, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Saturday, the 9th day of August, A. D. 1884, at 10 o'clock A. M.

The surface of all that certain lot of land situate in the city of Wilkes-Barre, Luzerne county, Pennsylvania, being lot No. 1 on Miner, Kulp and Chase's map of North Wilkes-Barre, recorded in the office for recording deeds, etc., in and for the county of Luzerne, in Deed Book No. 164, page 1, being 54 feet in front or width on Main street and 140 feet in depth, and containing 7560 square feet; all improved, with a 2-story (basement) frame dwelling house.

TERMS OF SALE.—$300 down, 50 per cent. of balance on confirmation of sale and delivery of deed, and the balance with interest from confirmation as follows: payable in one year from date of sale. Deferred payments to be secured by bond and mortgage on the premises.

J. S. OBERRENDER,
Sheriff of Luzerne county, Trustee.
P. R. WEITZEL,
Attorney. 30-32

ESTATE OF HENRY BECHLUFT, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE STEGMAIER,
W. S. McLEAN, Wilkes-Barre, Pa.
Attorney. 30-35

ESTATE OF JOHN GREENAWALT, LATE of Hanover township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARRY HAKES,
30-35 Wilkes-Barre, Pa.

MONIES ET AL. *v.* KING ET AL.

No. 6, October term, 1876. In Equity. Now, 21st July, 1884, Sixth Report and Partial Account of G. Bishop, receiver, filed. Now, July 21st, 1884, it appearing to the court that the Sixth Report or Account of George Bishop, the receiver appointed by the court of the estate and effects of the late partnership subsisting between Edward Howell and A. D. King, under the name of Howell & King, has this day been duly filed, it is ordered that the Prothonotary give notice of the filing and exhibition of the said Account by publication for two successive weeks in the *Luzerne Legal Register* and *Weekly Record of the Times*, setting forth in such notice that the said Account will be allowed on the 6th day of October, A. D. 1884, unless cause be shown why such account should not be allowed.

BY THE COURT.
E. P. & J. V. DARLING,
Solicitors for Receiver. 30-31

NOTICE IS HEREBY GIVEN, THAT AN

application will be made to one of the Law Judges of Luzerne county, on Tuesday, the 5th day of August, 1884, at 10 o'clock A. M., under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, for the charter of an intended corporation, to be called the "Sobieski Guards," the character and object whereof is mutual improvement, caring for the sick and burying the dead, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements.

H. W. PALMER,
H. A. FULLER,
28-30 Solicitors.

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IN THE COURT OF QUARTER SESSIONS of Luzerne county. No. 125, June sessions, 1884. In Re Additional Election District in Conyngham township. Notice is hereby given, that the report of the Commissioners in the above stated case has been filed with the Clerk of the Court of Quarter Sessions, and was confirmed nisi by the court on the 28th day of June, 1884, and that said report will be confirmed absolutely by the court unless exceptions thereto be filed not later than the third day of the next term of said court.

L. K. STRENG,
30-32 Clerk Q. S.

ESTATE OF MARY A. TENCH, LATE OF West Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELIZABETH TENCH,
24-30 Pittston, Pa.

ESTATE OF HARRIET CAFFEY, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES W. SPAYD,
25-30 Wilkes-Barre, Pa.

ESTATE OF REBECCA S. STROUD, LATE of Dallas township, deceased,

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BARNEY STROUD,
26-31 Dallas, Pa.

ESTATE OF ELLEN KELLEY, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HUGH B. CONAHAN,
26-31 Hazleton, Pa.

ESTATE OF SAMUEL BIGLY, LATE OF Shickshinny, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN W. BIGLY,
25-30 Shickshinny, Pa.

ESTATE OF PATRICK SMITH, LATE OF Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

PAUL BOHAN,
C. F. BOHAN, Pittston, Pa.
Attorney. 25-30

ESTATE OF DAVID H. DAVIS, LATE OF Nanticoke, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ANN H. DAVIS,
D. M. JONES, Nanticoke, Pa.
Attorney. 25-30

ESTATE OF JOHN KLEIN, 2D, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

JACOB KLEIN,
24-30 Wilkes-Barre, Pa.

ESTATE OF BRIDGET GALLAGHER, LATE of Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

LAWRENCE MOROHAN,
C. F. BOHAN, Pittston, Pa.
Attorney. 25-30

ESTATE OF W. W. DIETRICK, LATE OF Plymouth, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGIE DIETRICK,
25-30 Plymouth, Pa.

ESTATE OF CATHERINE KNAUSS, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HENRY W. MONTGOMERY,
WM. C. PRICE, Wilkes-Barre, Pa.
Attorney. 26-31

ESTATE OF MARY LANDMESSER, LATE of Hazle township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN N. LANDMESSER,
C. W. KLINE, Hazleton, Pa.
Attorney. 26-31

ESTATE OF NICOLAUS GORLITZ, LATE of Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN BAAB,
F. J. SCHWAB,
GUSTAV HAHN, Wilkes-Barre, Pa.
Attorney. 26-31

ESTATE OF MICHAEL ANGELO, LATE OF Hazleton, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY ANGELO,
C. W. KLINE, Hazleton, Pa.
Attorney. 26-31

ESTATE OF HIRAM A. STOCKER, LATE of Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EMMA E. STOCKER,
30-35 Wilkes-Barre, Pa.

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ESTATE OF E. W. MILLER, LATE OF Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EBEZENAH MILLER,
JOHN RICHARDS, Pittston, Pa.
Attorney. 27-32

ESTATE OF MARY E. HALLOCK, LATE OF Dallas township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JESSE HALLOCK,
W. S. McLEAN, Dallas, Pa.
Attorney. 27-32

ESTATE OF JOHN CHROSTWAIT, LATE OF Ashley, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY CHROSTWAIT,
W. H. HINES, Ashley, Pa.
Attorney. 29-34

ESTATE OF JOHN HOLMES, LATE OF Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN B. SMITH,
H. B. PAYNE, Pittston, Pa.
Attorney. 29-34

ESTATE OF HORATIO MULFORD, LATE OF Kingston township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH E. MULFORD,
HENRY COURTRIGHT,
L. D. SHOEMAKER, Orange, Pa.
Attorney. 29-34

ESTATE OF WILLIAM S. SHOEMAKER, late of Kingston township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. H. SHOEMAKER,
IVA R. SHOEMAKER,
S. J. SHARPS,
J. A. HUTCHINS,
DICKSON & ATHERTON, Wyoming, Pa.
Attorneys. 30-35

ESTATE OF ELIZABETH JAMES, LATE OF Hazle township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

P. H. JAMES,
C. W. KLINE, Hazleton, Pa.
Attorney. 26-31

ESTATE OF HENRY W. COHEE, LATE OF Plains township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE W. COHEE,
L. H. BENNETT, Plains, Pa.
Attorney. 29-34

ESTATE OF ANN TIGUE, LATE OF Kingston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

PATRICK TIGUE,
30-35 Kingston, Pa.

ESTATE OF CHARLES H. GARRISON, LATE of Plymouth township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

S. R. FERRELL,
30-35 Kingston, Pa.

ESTATE OF ANTONETTE BECK, LATE OF Franklin township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES H. COOKE,
H. B. PAYNE, Dallas, Pa.
Attorney. 30-35

W. S. PARSONS,
ALDERMAN,
WILKES-BARRE, PA.

CHAS. D. FOSTER,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

WILLIAM S. McLEAN,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, AUGUST 1, 1884. NO. 31.

Court of Common Pleas of Lackawanna County.

SANDERSON *et al. v.* CITY OF SCRANTON.

An instrument which is in many of its terms apparently a lease of coal is in reality a sale and conveyance if it passes "all the coal beneath the surface of the tract," with the right "to mine the coal and remove the same," and "the true meaning of the lease is to make it perpetual until all the coal is mined"

Coal under such a lease is properly assessed to the vendee.

Error to Common Pleas of Lackawanna county.

The opinion of the court was delivered April 7, 1884, by

CLARK, J.—The single question which arises upon the case stated is whether the instrument of writing, bearing date the 10th day of May, 1875, between George Sanderson and the devisees of Charles Robb, deceased, of the one part, and John Jermyn of the other part, is a lease, properly so-called, or virtually a sale of the minerals in place. What is termed a mineral lease is frequently found to be an actual sale of a portion of the land. It differs from an ordinary lease in this, that, although both convey an interest in land, the latter merely conveys the right to its temporary use and occupation, whilst the former conveys absolutely a portion of the land itself. It is one of the essential properties of a lease, that its duration shall be for a determinate period, shorter than the duration of the estate of the lessor, hence the estate demised is called a "term," and necessarily implies a reversion. If the entire interest of the lessor is conveyed in the whole or a portion of his land, the conveyance cannot therefore be properly regarded as a demise, but as an assignment. Upon examination of this instrument, we

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find that the lease is not of the mine, with its approaches and appliances, and the right to use, occupy, and operate the same, but it is a lease of "all the coal beneath the surface of the tract," with the right "to mine the coal and remove the same." The maximum quantity to be mined and removed in each year is unlimited, but the maximum average quantity is fixed and certain, and that the minimum quantity must be "paid for" in each year "whether mined or not." Provision is made for delays which may be caused from "faults" found, casualties, want of adequate transportation, strikes of employees, etc., but these hindrances are only to afford temporary excuse for non-payment; the rule of the contract is that 65,000 tons of coal shall be paid for in each year "whether mined or not." The duration of the interest is not for any determinate period of time; it is not for years, for life, or at will. "The true meaning of the lease," as expressed therein, "is to make it perpetual until all the coal under the tract of the land herein described is mined," that is to say, it is a lease of coal until no coal remains. In what respect then does this transaction lack the essential qualities of an actual sale? The language of this lease is in most respects similar to that referred to in the case of Scranton *v.* Phillips, 8 W. N. C. 425, which was "of all the coal in and under said lot and other land for and during the term and period of time as shall be required therefor to mine and remove all said coal." The further stipulations bear a close analogy to the contract now before us. In delivering the opinion of the court in Scranton *v.* Phillips, the present chief justice says, although called a lease, it was virtually a sale of all the coal, with unlimited time to remove it; with the right at their election to yield it up, after the expiration of ten years, etc. It is certainly true that a lease, properly so called, always conveys an interest in land, and in this respect it is to be distinguished from a mere license, 11 Casey, 287; but where that which purports to be a lease conveys the whole interest of the lessor, it differs in no respect from a sale. Palmery *v.* Edwards, 1 Doug. 187; 2 Black. Com. 317. When the purposes and objects of this instrument are perfected, the coal will be exhausted, and the lessor can have nothing by the reversion. It is true, in general, that Jermyn covenanted to pay monthly for the coal, as

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it was mined, at the rate of twenty-five cents per ton, but he also agreed to pay monthly for a certain quantity whether it was mined or not, and the legal obligation to pay continued when all mining operations should cease. It cannot be said that Jermyn owned only the coal which he mined and paid for. It is true the payments were to be according to the yield of the mine, but the consideration of the contract depended upon the quantity of coal which the mine, upon measurement, might be found to contain, and that measurement was made as the mining progressed. The mere fact that the indenture contains a reservation of rent, with the right of distress, will not change its legal operation and effect. We are of opinion, therefore, that there was such a severance of the surface from the underlying strata as created a divided ownership in these distinct portions of the land. It is the duty of the assessors in the several counties to take an account, in the form directed by law, of all houses, lands, etc., and to assess and value the same, at the rate or price for which they would sell, at a *bona fide* sale, after full public notice. Land has an indefinite extent, upwards as well as downwards, but the law recognizes horizontal divisions of land. A severance of the surface from the underlying strata may be created either by reservation or express grant. After severance, a mineral right is an independent interest in the land; it forms a distinct possession, is held upon a distinct title, and is as much the subject of sale, devise, or inheritance, and of separate taxation, as the surface land. Caldwell *v.* Copeland, 1 Wright, 427. A mineral right is taxable as land; the owner of the surface and of the mine are each taxable, according to the value of their respective interests. Where there is a divided ownership, there must be a divided taxation. Logan *v.* Washington Co., 5 Casey, 373. The owner of surface land can no more be held for the tax upon the mineral strata, after a severance, than can the owner of the mine be held for the taxes upon the surface. The case is certainly not free from doubt. The paper purports to be a lease—provides for a forfeiture upon violation of its conditions. The price of the coal is denominated rent, and the remedy for its collection is by distress. Yet the considerations we have stated have forced us to the conclusion that it was an actual sale rather than a mere demise of

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the coal. The provision, made for the payment by Jermyn, of all "Government imposts, United States, State, County and local taxes upon the coal mined under the lease, without recourse or claim on the parties of the first part, to refund any part of the same," is, we think, not important in the determination of this question. The mined coal is admittedly the property of Jermyn, or his assigns, and why provision was made for the payment of the taxes upon it is as difficult to explain upon one hypothesis as it is upon the other. It follows, without stating it, that the purchasers of the coal in place must pay the taxes upon it. To avoid uncertainty, however, as to the discharge of such burdens as then were, or thereafter might be, imposed upon the coal mined, this clause was doubtless inserted. In the event of a distress levied for the rent, this provision might become important in connection with the clause of forfeiture contained in the contract. The interest of John Jermyn, under the contract, before suit brought, was assigned to the Delaware, Lackawanna and Western Railroad Company and the president, managers, and company of the Delaware & Hudson Canal Company. Subject to their title, the land and agreement had been conveyed and assigned to the defendants below. The former, we think, are liable to taxation for the coal, the latter for the surface, according to the valuation of each respectively.

The judgment is therefore reversed, and judgment is now entered for the defendant below on the case stated, with costs.

It was pleaded on behalf of a Hundred charged with a loss incurred by robbery on Gad's Hill, that, time out of mind, it had been customary to rob upon Gad's Hill.

E. B. Yordy has a few more Court Rules left. They contain the rules of the Common Pleas, Orphans' Court, Quarter Sessions, Supreme Court, and Equity.

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ORPHANS' COURT SALE.

Estate of Michael Hart, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Saturday, the 9th day of August, A. D. 1884, at 10 o'clock A. M.

The surface of all that certain lot of land situate in the city of Wilkes-Barre, Luzerne county, Pennsylvania, being lot No. 1 on Miner, Kulp and Chase's map of North Wilkes-Barre, recorded in the office for recording deeds, etc., in and for the county of Luzerne, in Deed Book No. 164, page 1, being 54 feet in front or width on Main street and 140 feet in depth, and containing 7660 square feet; all improved, with a 2-story (basement) frame dwelling house.

TERMS OF SALE.—$300 down, 50 per cent. of balance on confirmation of sale and delivery of deed, and the balance with interest from confirmation as follows: payable in one year from date of sale. Deferred payments to be secured by bond and mortgage on the premises.

J. S. OBERRENDER,
Sheriff of Luzerne county, Trustee.
P. R. WEITZEL,
Attorney. 30-32

ORPHANS' COURT OF LUZERNE COUNTY.

In re partition of the estate of John R. Broadhead, late of Buck township, in said county, deceased.

Now, to wit, 4th June, A. D. 1884: Inquest awarded as prayed for. Notice to be given to the parties interested resident within the county as directed by law and notice to parties interested not resident within the county by advertisement in one weekly newspaper published in Wilkes-Barre, Pa., for three successive weeks prior to the holding of the inquest, and by mailing a copy of each of said newspapers to the last known place of residence of such non-resident parties.

Returnable the first day of next term, at 10 o'clock A. M. BY THE COURT.

In pursuance of the order of court, notice is hereby given to Cyrus Brodhead, Phillipsburg, Centre county, Pa.; Rachel Brodhead, Sauk Rapids, Benton county, Minnesota; Nellie E. Stanchfield, Bethel, Anoka county, Minnesota; Effie E. Stanchfield, Anoka, Anoko county, Minnesota; Ward O. Brodhead, Sauk Rapids, Benton county, Minnesota; Russel W. Brodhead, Sauk Rapids, Benton county, Minnesota; Mary K. Brodhead, Sauk Rapids, Benton county, Minnesota; Steel J. Brodhead, Sauk Rapids, Benton county, Minnesota; Worth O. Brodhead, Sauk Rapids, Benton county, Minnesota, and all others interested, that an inquest in partition will be held upon the lands described in said writ, situated in Buck township, Luzerne county, on Friday, the 22d day of August, 1884, at 10 o'clock, A. M., at which time and place you can attend if you desire.

J. S. OBERRENDER,
JOHN S. HARDING, Sheriff.
Attorney. 31-33

IN RE ASSIGNMENT OF HEADLEY D. Benscoter. The Trustee of said Headley D. Benscoter has filed his final account, as Trustee of said Benscoter, and the same will be presented to court on Monday, September 8th, 1884, at 10 o'clock A. M., for confirmation and allowance.

JAMES M. NORRIS,
31-36 Prothonotary.

IN THE COURT OF QUARTER SESSIONS of Luzerne county. No. 125, June sessions, 1884. In Re Additional Election District in Conyngham township. Notice is hereby given, that the report of the Commissioners in the above stated case has been filed with the Clerk of the Court of Quarter Sessions, and was confirmed nisi by the court on the 28th day of June, 1884, and that said report will be confirmed absolutely by the court unless exceptions thereto be filed not later than the third day of the next term of said court.

L. K. STRENG,
30-32 Clerk Q. S.

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Monday, the 1st day of September, A. D. 1884, at 10 o'clock A. M., under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, for the approval of the alteration of the name of the Wilkes-Barre Academy to that of the "Harry Hillman Academy," as set forth in the petition for the allowance of said alteration filed in said court.

E. P. & J. V. DARLING,
30-32 Solicitors.

MONIES ET AL. *v.* KING ET AL.

No. 6, October term, 1876. In Equity. Now, 21st July, 1884, Sixth Report and Partial Account of G. Bishop, receiver, filed. Now, July 21st, 1884, it appearing to the court that the Sixth Report or Account of George Bishop, the receiver appointed by the court of the estate and effects of the late partnership subsisting between Edward Howell and A. D. King, under the name of Howell & King, has this day been duly filed, it is ordered that the Prothonotary give notice of the filing and exhibition of the said Account by publication for two successive weeks in the *Luzerne Legal Register* and *Weekly Record of the Times*, setting forth in such notice that the said Account will be allowed on the 6th day of October, A. D. 1884, unless cause be shown why such account should not be allowed.

BY THE COURT.

E. P. & J. V. DARLING,
Solicitors for Receiver. 30-31

ESTATE OF REBECCA S. STROUD, LATE of Dallas township, deceased,

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BARNEY STROUD,
26-31 Dallas, Pa.

ESTATE OF ELLEN KELLEY, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HUGH B. CONAHAN,
26-31 Hazleton, Pa.

ESTATE OF CATHERINE KNAUSS, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HENRY W. MONTGOMERY,
WM. C. PRICE, Wilkes-Barre, Pa.
Attorney. 26-31

ESTATE OF MARY LANDMESSER, LATE of Hazle township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN N. LANDMESSER,
C. W. KLINE, Hazleton, Pa.
Attorney. 26-31

ESTATE OF HIRAM A. STOCKER, LATE of Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EMMA E. STOCKER,
30-35 Wilkes-Barre, Pa.

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ESTATE OF NICOLAUS GORLITZ, LATE of Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN BAAB,
F. J. SCHWAB,
GUSTAV HAHN, Wilkes-Barre, Pa.
Attorney. 26-31

ESTATE OF MICHAEL ANGELO, LATE OF Hazleton, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY ANGELO,
C. W. KLINE, Hazleton, Pa.
Attorney. 26-31

ESTATE OF HENRY BECHLUFT, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE STEGMAIER,
W. S. McLEAN, Wilkes-Barre, Pa.
Attorney. 30-35

ESTATE OF JOHN GREENAWALT, LATE of Hanover township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARRY HAKES,
30-35 Wilkes-Barre, Pa.

ESTATE OF E. W. MILLER, LATE OF Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EBEZENAH MILLER,
JOHN RICHARDS, Pittston, Pa.
Attorney. 27-32

ESTATE OF MARY E. HALLOCK, LATE OF Dallas township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JESSE HALLOCK,
W. S. McLEAN, Dallas, Pa.
Attorney. 27-32

ESTATE OF JOHN CHROSTWAIT, LATE OF Ashley, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY CHROSTWAIT,
W. H. HINES, Ashley, Pa.
Attorney. 29-34

ESTATE OF CASPAR SHAFFAR, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

FREDERICK WETTERAU,
31-36 Hazleton, Pa.

ESTATE OF JOHN HOLMES, LATE O Pittston, deceased.

Letters of administration upon the above nam estate having been granted to the undersigned, all p sons indebted to said estate are requested to ma payment, and those having claims or demands to p sent the same, without delay, to

JOHN B. SMITH,
H. B. PAYNE, Pittston, Pa.
Attorney. 29

ESTATE OF ELIZABETH JAMES, LATE O Hazle township, deceased.

Letters of administration upon the above nam estate having been granted to the undersigned, all p sons indebted to said estate are requested to ma payment, and those having claims or demands to p sent the same, without delay, to

P. H. JAMES,
C. W. KLINE, Hazleton, Pa.
Attorney. 26

ESTATE OF ANN TIGUE, LATE OF KIN ston township, deceased.

Letters of administration upon the above nam estate having been granted to the undersigned, all p sons indebted to said estate are requested to ma payment, and those having claims or demands to p sent the same, without delay, to

PATRICK TIGUE,
30-35 Kingston, Pa

ESTATE OF CHARLES H. GARRISON, LA of Plymouth township, deceased.

Letters of administration upon the above nam estate having been granted to the undersigned, all p sons indebted to said estate are requested to ma payment, and those having claims or demands to p sent the same, without delay, to

S. R. FERRELL,
30-35 Kingston, Pa

ESTATE OF ANTONETTE BECK, LATE OF Franklin township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES H. COOKE,
H. B. PAYNE, Dallas, Pa
Attorney. 3

ESTATE OF SAMUEL DUTT, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELIZABETH DUTT,
ELIAS ROBINS,
31-36 Wilkes-Barre, Pa.

ESTATE OF MARY W. THOMAS, LATE OF Plymouth, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ISAAC D. WILLIAMS,
JOHN ROWE,
JOHN LYNCH, Plymouth, Pa.
Attorney. 31-36

ESTATE OF JOHN E. RAINOW, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOSIAH LEWIS,
J. G. MILLER, Wilkes-Barre, Pa.
Attorney. 31-36

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, AUGUST 8, 1884. NO. 32.

Court of Common Pleas of Luzerne County.

MONAGHAN *v.* DOWNS.

Attorney and Client.

An assignment of a judgment by a client to his attorney, who has been employed to collect the same, in consideration of a claim for legal services is not necessarily void. But, owing to the confidential relations of the parties, the policy of the law casts upon the attorney the burden of establishing its perfect fairness, equity, and adequacy of consideration.

Rule to show cause why assignment of judgment to M. Cannon shall not be stricken off.

The opinion of the court was delivered June 23, 1884, by

RICE, P. J.—The sole reason alleged in the affidavit upon which this rule was granted for striking off the assignment, was that it was a forgery. This allegation is, however, negatived by the great preponderance of the testimony.

But another question was raised on the argument of the rule, which may be briefly stated as follows: Can an attorney at law take an assignment of a judgment which he has been employed to collect, and will the law hold the assignment valid, especially where the judgment is double the amount of the claim in payment of which the assignment is made? Such an assignment is not necessarily void, but, owing to the confidential relations of the parties, the policy of the law casts upon the attorney the burden of establishing its perfect fairness, equity, and adequacy of consideration. It is incumbent on him to show that he acted in good faith; that he took no advantage of his influence or knowledge, and that he brought everything to the knowledge of his client which he himself knew. Now, it appears from the evidence that in March, 1877, when this assignment was made, the assignee had a claim against the assignor for legal services

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rendered amounting to seventy or eighty dollars, that he wrote to the latter demanding payment, and that the latter in satisfaction of the demand assigned this judgment, or rather the judgment of which it is a revival. The judgment on its face was for one hundred and fifty-four dollars and some costs. The assignee at the time of the assignment told the assignor that the judgment was worthless and could not be collected, but the latter said it was the best he could do as he had no money. These representations as to the collectibility of the judgment seem not to have been made for the purpose of inducing the assignor to part with it, but rather as objection to taking it in payment of the attorney's demand. But whatever may have been the purpose, the rule stated above bound the attorney to the utmost good faith. He was not only bound to refrain from undue influence, but also to convey to his client all his knowledge upon the subject. If the representations were not true, the transaction would be vitiated, even though no actual deceit was intended. Further than that, even in the absence of positive misrepresentation, we doubt whether equity would sustain an absolute assignment of a perfectly collectible judgment, which the attorney was employed to collect, in payment of a demand for fees of half its amount, especially where such demand was accompanied by a threat to sue. It was therefore incumbent on the attorney to show that at the time of the assignment the judgment was as he represented it to be. We are now prepared to say that he has failed in this particular. He testifies in general terms that it was worthless, and also that he had made efforts to collect it by execution and attachment, but had failed. The effect of this testimony as showing the value of the judgment and the adequacy of the consideration for its assignment was such as, in our judgment, to call for some proof from the other side. There is no proof, however, that the judgment could have been collected when it was assigned. Under all the circumstances it seems to us that the transaction was fair and legitimate, and that, the statute having barred the claim for which the judgment was assigned, the assignment ought not to be disturbed without an offer on the part of the assignor to do equity by paying said claim.

The rule to strike of the assignment is discharged.

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Court of Common Pleas of Luzerne County.

IN RE HADFIELD.

Habeas Corpus—Seduction—Sentence—Costs.

Where a sentence and commitment on a conviction for seduction fail to show that the defendant was sentenced to pay the costs, he can not be held on that commitment after the expiration of his term and payment of the fine.

Habeas corpus.

The opinion of the court was delivered July 21, 1884, by

RICE, P. J.—Robert Hadfield, having been found guilty of seduction, was, on October 1, 1881, sentenced to pay a fine of one hundred dollars and to undergo an imprisonment in the Luzerne county prison for the term of one year, and to stand committed until the sentence should be complied with. On October 9, 1882, he sued out this writ, and, upon producing a receipt showing that he had paid the fine, asked to be discharged from custody.

The question is, whether he can be held on this commitment for the costs, neither the commitment nor record showing that he was sentenced to pay the same.

Every person convicted of a crime is legally liable for the costs. Act March 31, 1860, sec. 64, P. L. 445, P. D. 391, pl. 67. But the authority for imprisoning the defendant for costs rests, not on this legal liability, but on the sentence of the court. "No conviction is complete" says Lowrie, C. J., "until sentence is passed and recorded, and every sentence must express the very punishment which is to be executed on the prisoner, and the warrant of commitment must follow the sentence as recorded." Cumberland *v.* Holcomb, 12 C. [illegible]. For example, although the punishment prescribed by law in the case cited was imprisonment "at hard labor," yet it was held that the kind of imprisonment must be determined by the sentence and commitment, "for no jailer," say the court, "can exceed the punishment defined in the sentence and commitment; this is never intrusted to him." Can it not be said with equal force in the present case that the

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authority of the warden to hold the relator ended when the terms and conditions of the sentence and commitment were complied with? To hold otherwise would be to introduce by implication something into the judgment and commitment which does not appear on their face, and this, we think, cannot be done. The uniform practice in this county and state to expressly include the payment of the costs in the sentence and commitment has the weight almost of positive decision that it is an essential, and not a merely formal expression of that which the law would imply as an incident of the sentence, even though it were not expressly included in it. See Schuylkill Co. *v.* Reifsnyder, 10 Wr. 450. Whether, in the present instance, it was inadvertently omitted by the court in imposing sentence, or whether it was inadvertently omitted from the recorded sentence, is not material. The legal presumption is, that the sentence was recorded as it was pronounced, and, judged by the record and the commitment, the sentence has been complied with, and the relator is entitled therefore to be discharged from custody under this commitment.

Judgment is given for the relator, and he is discharged from custody.

Harry Hakes, for relator.

What the West apparently needs is a trap to catch a cyclone by the tail and hold it until help arrives.

Costs against the clerk for mistaking the subpœna. The defendant was dismissed for want of a bill, and forty shillings given him; whereupon he bespake the subpœna for costs, and Robert Bailes, clerk, made the subpœna *ad comparend.*, which being served, the other appeared and got costs, both which costs were discharged, and ordered that the plaintiff may have a subpœna against the said clerk, Robert Bailes, for the costs. Fairbanck, plaintiff. Domina Metham, defendant. Anno 21 et 22 Eliz.

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and those having claims or demands to present the same, without delay, to

SARAH E. MULFORD,
HENRY COURTRIGHT,
L. D. SHOEMAKER, Orange, Pa.
Attorney. 29-35

and those having claims or demands to present the same, without delay, to

ELIZABETH DUTT,
ELIAS ROBINS,
31-36 Wilkes-Barre, Pa.

and those having claims or demands to present the same, without delay, to

ISAAC D. WILLIAMS,
JOHN ROWE,
JOHN LYNCH, Plymouth, Pa.
Attorney. 31-36

COMMON PLEAS CERTIORARI LIST.

MONDAY, SEPTEMBER 1, 1884.

NO.	PLAINTIFFS' ATTORNEYS.	PLAINTIFFS.	DEFENDANTS.	DEFENDANTS' ATTORNEYS.	
1	Lenahan	J. F. Donohue	S. L. Brown	McCartney	Certiorari.
2	Farnham	David Natrath	Daniel Mulherin		Certiorari.
3	B. & N	Wm. Moore & Co	Ira B. Wolfinger		Certiorari.
4	B. & N	James McGinty et al	J. J. Smythe	L.	Certiorari.
5	Hines, Hahn	Thomas H. Bond	John H. Hetler		Certiorari.
6	J. L. L	John Keeley	Peter Wentzell		Certiorari.
7	J	Benjamin Armstrong	George S ger		Certiorari.
8	M	Hiram Booth	Joseph Stranix		Certiorari.
9	Fuller	Wilkes-Barre Gas Co	Jacob Stern	L.	Certiorari.
10	J. L. L	Robert Cronan	John H. Harris		Certiorari.
11	Brundage	Martin Specht	Francis Shafer		Certiorari.
12	Shonk	George H. Davis	G. L. Baldwin		Certiorari.
13	Gates	Thomas Farrell	Patrick Mooney		Certiorari.
14	J. T. L	Hannah Brooks	Hugh Reel		Certiorari.
15	Darlings, G. M. L	George Dorna et al.	E. G Alling		Certiorari.
16		Frederick Rhine	William Turcan		Certiorari.
17	Strauss	Adam Dombrowsky	Singer Manufacturing Co		Certiorari.
18	W	Samuel Martz	Edmund Klinesmith		Certiorari.
19	M	Leon Mikulewicz	Ignatius Valandavage		Certiorari.
20	J	W. W. Williams	Henry G. Parry		Certiorari.
21	C.	Wiseman & Blatner	B. E. Brundage		Certiorari.
22		L. F. Cope	Frank Long		Certiorari.
23		Baltzer Helfrich et al	Samuel Keithline		Certiorari.
24	J. L. L	James Pearn et ux	R. E. Hutchins	Jenkins	Certiorari.
25	T	W. B. S. Marble & G Works	William Baird		Certiorari.
26	D. & A	Fuller Coal Co	Samuel Loudenberg	Jenkins	Certiorari.
27	J. T. L	John Edwards et ux	Edward Carr		Certiorari.
28	J. L. L	Alexander McKelvey	Samuel Griffith		Certiorari.
29	J. T. L	William Amos	N. W. Abbey		Certiorari.
30	Mosier	Aaron Brown	Fr. & M. M. F. Ins. Co		Certiorari.

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COMMON PLEAS ARGUMENT LIST.

TUESDAY, SEPTEMBER 2, 1884.

NO.	PLAINTIFFS' ATTORNEYS.	PLAINTIFFS.	DEFENDANTS.	DEFENDANTS' ATTORNEYS.	RULE.
1	C. B. Jackson, Farnham . .	Seth B. Bowman	Daniel F. Seybert	Ricketts	For new trial.
2	Ferris	Andrew Bryden	Sheble & Hill	Sturges, Lamb	For new trial.
3	L., Farnham	A. Watt & Co	T. B. Hart	R	For new trial.
4	. . . . .	Sumner, Reed, Williams & Co	Paul Sucharski et al	Strauss, P	For new trial.
5	O'Neill	Central Poor District . . .	Condy Gallagher et al . . .	L., Osborne	For new trial.
6	O., W., H	Arnold Bertels et al. . . .	Franklin Coal Co	Palmer	For new trial.
7	J., Gates	Charles Elliott	W. L. Paine	Shonk, Farnham	For new trial.
8	B. & N., F., McL.	E. P. Steele & Co. et al . .	Paul Suchorski	Miller, J. L	For new trial.
9	Farnham	In Re Assignment of . . .	John Stuart	Robinson	Exceptions to Auditor's report.
10	J., E. A. L	Elsy Adams, dec'd	William Hauze et al	Darte	Exceptions to Referee's report.
11	Hahn, Bedford	Hartford Fire Ins. Co . . .	H. Oppenheimer	Brundage, Strauss	Exceptions to decision of court.
12	Hines, B	William Case	Adam Scheidel	McLean	Bill and answer.
13	Farnham	In Re Assignment of John	Stuart for ben't of creditors	. . . . .	To open partial account of Assignee, &c.
14	Miller	W. P. Kirkendall	W. H. Williams et al . . .	Osborne	To open judgment.
15	Robinson	C. A. Zeigler, Ad.	Fred. Reufer	B. & N	To open judgment.
16	Robinson	C. A. Zeigler, Ad.	Fred. Reufer	B. & N	To open judgment.
17	Darlings	Use of John M. Ward . . .	Henry Zeigler et al	. . . . .	To open judgment as to all except $30.
18	Connollys	Patrick McCann	Excelsior Building Asso . .	T. F. W	To revoke appointment of sequestrator.
19	Farnham	Henry Lutz, assigned . . .	W. & P. Cordner	. . . . .	To strike off judgment.
20	Foster	P. H. Tuska	Ig. Freeman & Co	Brundage	To open judgment.
21	. . . . .	Richard Jones	James Bevan	J. L	To quash writ &c.
22	. . . . .	Use of M. C. Farley . . .	Borough of Pleasant Valley	McGahren	For assignment of $150.
23	R. & L	Thompson & Kersey . . .	Sallie H. Owen et al . .	Payne, Darlings, L	To strike off judgment, &c.
24	R. & L	Maria Street	K. R. Owen et al	Payne, Darlings, L	To strike off judgment, &c.
25	Lamb	E. L. Diefenderfer	Owen Caffrey, dec'd . . .	McG	To strike off appeal.
26	J. & Son	Henry Kindig	Samantha Crevelling et al .	Troutman	To open judgment.
27	Troutman	Susan Ann Smyth	James Smith	. . . . .	For alimony, &c.
28	. . . . .	N. Borneisen, assigned . .	James McCartney et al . .	. . . . .	For subrogation.
29	M	Hiram Booth	Daniel McAlister	. . . . .	To reverse proceedings.
30	M	Hiram Booth	Joseph Strazix	. . . . .	To reverse proceedings.
31	A. H. McClintock	Frank Young, Trustee . .	O. P. Kester et al	Payne	To open judgment.
32	Strauss	Michael Worgo	Fuller Coal Co., Garnishee	D. & A	To enter judgment.
33	Strauss	George Shuta	Fuller Coal Co., Garnishee	D. & A	To enter judgment.
34	C	M. Cannon, Assignee . . .	William Downs	Shonk	To open judgment as to all in excess of $42.
35	C	M. Cannon, Assignee . . .	William Arnold	M	To open judgment, &c.
36	B. & N	Goldstein, Friedman & Co .	M. Sondheim	. . . . .	To dissolve attachment.

WEDNESDAY, SEPTEMBER 3, 1884.

37	Brundage	T. J. Good	Smith & Sellover	J. T. L	To open judgment.
38	Osborne	William Croop	Mary Croop	J. T. L	For alimony, &c.
39	Darlings, Ricketts	F. B. Myers et al	Kingston Coal Co., limited	Payne	Exceptions to report of Master.
40	Kisner	John Faux	P. H. Good et al.	J. T. L	To open judgment.

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45	McLean	In Re Shff's Sale of R. E. of	James Garrahan et al		Exceptions to Auditor's report.
46		Thomas Lyons	William H. Jones	Mahon	For set-off.
47	J. L. L	John McAnany	Michael McGough		To strike off appeal.
48	S	Mary Laux	George Schauble et al	Strauss	To strike off judgment v. wife.
49	H. & R	In Re Shff's Sale of P. P. of	Ann Witcraft		Exceptions to Auditor's report.
50		D. L. O'Neill	Peter Davies et al	Evans	To dissolve attachment.
51	O'Neill	D. L. O'Neill	Matthew Leckie et al	Evans	To dissolve attachment.
52	O'Neill	G. M. Nagle, Ad., et al	John Davis	Gates	To set aside Sheriff's sale.
53	McLean, Gibbons	James Peters	A. J. Davis & Co. et al	N	To satisfy judgment.
54	C	Benjamin Diggony	A. J. Davis & Co. et al	N	To satisfy judgment.
55	O'Neill	Lucy J. Tuggle	J. E. Leath et ux	McLean	Exceptions to decision of court.
56	Martin	Salem Coal Co.	Thomas Winans, Agent	W	To open judgment.
57	Hand	George K. Powell, Ass.	Michael Loeb, Ad., et al	Darlings	To strike off judgment v. Margaret Loeb.
58	Powell	Isaac Stevens	L. W. DeWitt		To stay execution, &c.
59		Jacob Matthias	Barnet Searfoss	Brundage	To strike off discontinuance, &c.
60	Butler, R	M. & M. Bank, Scranton	M. D. May	J. L	To open judgment, &c.
61	W., A	B. Flynn, Treasurer	Supervisors of Plains Tp.		For alternative mandamus.
62	C	William Hall & Co.	Pittston Knitting Co., lim'd	Ferris	To take out money by trustee.
63	Sturges	Sheble & Hill	Pittston Knitting Co., lim'd	Ferris	To take out money by trustee.
64	Sturges	Fred. Horlacher	Charles Karshner	Troutman	To open judgment.
65	Kline	Heisz & Lawrence	M. C. Tamony		Why committee shall not pay judgment, &c.
66	McLean, Gibbons	County of Luzerne	Mount'n Grove Camp Meet'g	Farnham	Case stated.
67	McLean	Henry Strous et ux	Ephraim Hushbet et al.	M.	Bill answer and exceptions.
68	B. & N	William Amos	N. W. Abbey	M.	To strike off bail.
69	J. T. L	Use of A. F. Fenner	John Daugher	M.	To strike off appeal.
70	M	John Zeis	Luzerne County	K	Case stated.
71	G	J. Frank Hart et al	T. J. Heffernan et al.	Harding, McG	
72	E. G. B				

ESTATE OF ANN TIGUE, LATE OF KINGston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

PATRICK TIGUE,
30-35 Kingston, Pa.

ESTATE OF ANTONETTE BECK, LATE OF Franklin township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES H. COOKE,
H. B. PAYNE, Dallas, Pa.
Attorney. 30-35

ESTATE OF CHARLES H. GARRISON, LATE of Plymouth township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

S. R. FERRELL,
30-35 Kingston, Pa.

ESTATE OF JOHN E. RAINOW, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOSIAH LEWIS,
J. G. MILLER, Wilkes-Barre, Pa.
Attorney. 31-36

ESTATE OF CASPAR SHAFFAR, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

FREDERICK WETTERAU,
31-36 Hazleton, Pa.

ESTATE OF JOHN HOLMES, LATE OF Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN B. SMITH,
H. B. PAYNE, Pittston, Pa.
Attorney. 29-34

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QUARTER SESSIONS ARGUMENT LIST.

MONDAY, SEPTEMBER 1, 1884.

1	In Re Road in Newport Township	McL. & J., Darlings, Hines	Exceptions to report of viewers.
2	In Re Private Road in Kingston Township		Exceptions to report of viewers
3	In Re Road in Conyngham Township	McLean, Brundage	Exceptions to report of reviewers.
4	In Re Road in Huntington Township	Hand	Exceptions to report of viewers.
5	In Re Road in Salem Township	Gates, Atherton	Exceptions to vacate and relay road.
6	In Re County Bridge in Nescopeck Township		To strike off approval of court.
7	In Re Road in Kingston Township		Exceptions to report of viewers.
8	In Re Road in Hunlock Township		Exceptions to report of viewers.
9	In Re Road in Ross Township		Exceptions to report of viewers.
10	In Re Road in Huntington Township		Exceptions to report of reviewers.
11	In Re Commonwealth v. George Judge		To take off forfeiture of recognizance.
12	In Re Commonwealth v. William Girton et al		To have sentence reconsidered, &c.
13	In Re Commonwealth v. W. T. Leas		For new trial.
14	In Re New Columbus v. Huntington Township	Lynch, Gates	On Huntington Township to pay expenses, &c.
15	In Re Commonwealth v. F. C. Pilger	Shoemaker	To set aside verdict.
16	In Re Pittston Township		For appointment of supervisor.
17	In Re Frank Barnhill's license		To revoke license.

IN RE ASSIGNMENT OF HEADLEY D. Benscoter. The Trustee of said Headley D. Benscoter has filed his final account, as Trustee of said Benscoter, and the same will be presented to court on Monday, September 8th, 1884, at 10 o'clock A. M., for confirmation and allowance.

JAMES M. NORRIS,
Prothonotary.

31-36

ESTATE OF WILLIAM S. SHOEMAKER, late of Kingston township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

W. H. SHOEMAKER,
IVA R. SHOEMAKER,
S. J. SHARPS,
J. A. HUTCHINS,
DICKSON & ATHERTON, Wyoming, Pa.
Attorneys.

30-36

ORPHANS' COURT SALE.

Estate of Michael Hart, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Saturday, the 9th day of August, A. D. 1884, at 10 o'clock A. M.

The surface of all that certain lot of land situate in the city of Wilkes-Barre, Luzerne county, Pennsylvania, being lot No. 1 on Miner, Kulp and Chase's map of North Wilkes-Barre, recorded in the office for recording deeds, etc., in and for the county of Luzerne, in Deed Book No. 164, page 1, being 54 feet in front or width on Main street and 140 feet in depth, and containing 7660 square feet; all improved, with a 2-story (basement) frame dwelling house.

TERMS OF SALE.—$300 down, 50 per cent. of balance on confirmation of sale and delivery of deed, and the balance with interest from confirmation as follows: payable in one year from date of sale. Deferred payments to be secured by bond and mortgage on the premises.

J. S. OBERRENDER,
Sheriff of Luzerne county, Trustee.
P. R. WEITZEL,
Attorney.

31-33

ORPHANS' COURT OF LUZERNE COUNTY.

In re partition of the estate of John R. Broadhead, late of Buck township, in said county, deceased.

Now, to wit, 4th June, A. D. 1884: Inquest awarded as prayed for. Notice to be given to the parties interested resident within the county as directed by law and notice to parties interested not resident within the county by advertisement in one weekly newspaper published in Wilkes-Barre, Pa., for three successive weeks prior to the holding of the inquest, and by mailing a copy of each of said newspapers to the last known place of residence of such non-resident parties

Returnable the first day of next term, at 10 o'clock A. M.

BY THE COURT.

In pursuance of the order of court, notice is hereby given to Cyrus Brodhead, Phillipsburg, Centre county, Pa.; Rachel Brodhead, Sauk Rapids, Benton county, Minnesota; Nellie E. Stanchfield, Bethel, Anoka county, Minnesota; Effie E. Stanchfield, Anoka, Anoko county, Minnesota; Ward O. Brodhead, Sauk Rapids, Benton county, Minnesota; Russel W. Brodhead, Sauk Rapids, Benton county, Minnesota; Mary K. Brodhead, Sauk Rapids, Benton county, Minnesota; Steel J. Brodhead, Sauk Rapids, Benton county, Minnesota; Worth O. Brodhead, Sauk Rapids, Benton county, Minnesota, and all others interested, that an inquest in partition will be held upon the lands described in said writ, situated in Buck township, Luzerne county, on Friday, the 22d day of August, 1884, at 10 o'clock, A. M., at which time and place you can attend if you desire.

J. S. OBERRENDER,
Sheriff.
JOHN S. HARDING,
Attorney.

31-33

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ORPHANS' COURT SALE.

Estate of Frederick Bach, sen., deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Saturday, August 23, 1884, at 10 o'clock A. M., the following real estate:

Beginning at a corner on Canal street, city of Wilkes-Barre, on line of lands of Charles F. Wells, thence along said Wells line 200 feet to lands of the estate of John R. Dean, deceased, thence along said Dean's line 29 feet to land conveyed to Ami Masterson, thence along said Canal street 29 feet to the place of beginning; containing 5,800 square feet of land, more or less, whereon is erected a 2-story frame building, used as a dwelling house and saloon.

TERMS OF SALE.—$500 down, 50 per cent. of balance on confirmation of sale and delivery of deed, and the balance, with interest, in one year from confirmation of sale and delivery of deed. The payment of the whole purchase money at the time of confirmation of sale and delivery of deed may be made by purchaser if desired. Deferred payments to be secured by bond and mortgage on the premises.

G. A. BACH,
M. E. WALKER, Administrator, c. t a.
Attorney. 32-34

IN THE COURT OF QUARTER SESSIONS of Luzerne county. No. 125, June sessions, 1884. In Re Additional Election District in Conyngham township. Notice is hereby given, that the report of the Commissioners in the above stated case has been filed with the Clerk of the Court of Quarter Sessions, and was confirmed nisi by the court on the 28th day of June, 1884, and that said report will be confirmed absolutely by the court unless exceptions thereto be filed not later than the third day of the next term of said court.

L. K. STRENG,
30-32 Clerk Q. S.

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Monday, the 1st day of September, A. D. 1884, at 10 o'clock A. M., under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, for the approval of the alteration of the name of the Wilkes-Barre Academy to that of the "Harry Hillman Academy," as set forth in the petition for the allowance of said alteration filed in said court.

E. P. & J. V. DARLING,
30-32 Solicitors.

ESTATE OF HIRAM A. STOCKER, LATE of Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EMMA E. STOCKER,
30-35 Wilkes-Barre, Pa.

ESTATE OF HENRY BECHLUFT, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE STEGMAIER,
W. S. McLEAN, Wilkes-Barre, Pa.
Attorney. 30-35

ESTATE OF JOHN GREENAWALT, LATE of Hanover township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARRY HAKES,
30-35 Wilkes-Barre, Pa.

ESTATE OF E. W. MILLER, LATE OF Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EBEZENAH MILLER,
JOHN RICHARDS, Pittston, Pa.
Attorney. 27-32

ESTATE OF MARY E. HALLOCK, LATE OF Dallas township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JESSE HALLOCK,
W. S. McLEAN, Dallas, Pa.
Attorney. 27-32

ESTATE OF JOHN CHROSTWAIT, LATE OF Ashley, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY CHROSTWAIT,
W. H. HINES, Ashley, Pa.
Attorney. 29-34

ESTATE OF HENRY W. COHEE, LATE OF Plains township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE W. COHEE,
L. H. BENNETT, Plains, Pa.
Attorney. 29-35

BENJAMIN F. McATEE, a member of the bar of Chester county, Pennsylvania, will apply for admission on Monday, September 1, 1884, to practice as an attorney in the several courts of the County of Luzerne. 32-34

W. S. PARSONS,
ALDERMAN,
WILKES-BARRE, PA.

CHAS. D. FOSTER,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

WILLIAM S. McLEAN,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, AUGUST 15, 1884. NO. 33.

Court of Quarter Sessions of Luzerne County.

IN RE HADSALL *et ux.*

Poor law—Act of June 13, 1836—Liability of children and grandchildren for support of parents and grandparents

1. Under act of 1836 (Purdon 1157, pl. 27), the children and grandchildren of a pauper are on precisely the same footing of liability for the relief of such pauper.

2. A grandchild is not discharged from this liability by proof of other grandchildren not reached by process, or even of children out of the jurisdiction of the court; his liability is individual, to be measured by his individual ability. In this case, a poor district asked for an order of relief against certain children and grandchildren of a pauper. There were other children and grandchildren either out of the jurisdiction or not served with process, some of whom were well able to give relief. None of the respondents except one, a grandson, was able to contribute towards paupers' support. *Held*, that said grandson was liable to the extent of his individual ability.

Rules to show cause why orders should not be made directing Elsie Sands, Lewis Culver and Sally Ann Culver, his wife, William Culver, Henry Sands, Jonathan Sands, and Henry H. Hadsall to relieve and maintain the above-named poor persons.

The opinion of the court was delivered August 1, 1884, by

RICE, P. J.—James Hadsall, being about ninety-seven years of age, and Elizabeth, his wife, being about eighty-eight years of age, pursuant to an order issued by two justices upon the complaint of Henry H. Hadsall, one of the respondents, became charges upon the poor district of Franklin township in April, 1883. Subsequently the overseers began these proceedings under section 28 of the act of June 13, 1836, P. L. 547, which provides as follows: "The father and grandfather, and the mother and grandmother, and the children and grandchildren of every poor person, not able to work, shall, at their own charge, being of sufficient ability, relieve and maintain such poor person,

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at such rate as the Court of Quarter Sessions of the county where such poor person resides shall order and direct * * *." Besides these respondents, there are other children and grandchildren. Some of these, it would seem, are well able to maintain these aged people during the few remaining days of their lives, but they either reside out of the jurisdiction of the court or have not been served with process. We are therefore to inquire whether the respondents named are of sufficient ability, and are under legal obligation to relieve the poor district in whole or in part from this burden.

Sally Ann Culver is a married daughter, aged about sixty-eight years. She owns no property in her own right, and has no income from any source. Therefore, whatever contribution she and her husband may make towards her parents' maintenance must be voluntary.

Elsie Sands is another daughter. She has a life estate in a farm which brings in a rent of not more than one hundred dollars a year. She also receives a pension of ninety-four dollars. Besides these annual sums, she has no other income. She is about sixty-seven years old, is almost helpless from rheumatism, and is, therefore, to some extent, dependent on her children. So long as she was able she contributed to her parents' support. Manifestly the law does not contemplate an order by the court which will take from her any part of her already too scanty income. See Huntington *v.* Krickbaum, 8 Luz. Leg. Reg. 127.

The other respondents are grandsons. Henry and Jonathan Sands are sons of Elsie Sands, William Culver is a son of Sally Ann Culver, and Henry H. Hadsall is a son of Henry B. Hadsall, who resides in Nebraska. The first question is whether they are under legal obligation to contribute to their grandparents' maintenance. Our act of March 9, 1771, 1 Sm. L. 332, was a substantial copy of the English act of 43 Eliz. C. 2, S. 7. It made grandparents liable for the relief and maintenance of their grandchildren, but imposed no corresponding duty or obligation upon the latter. The revisers, in speaking of what is now the 28th section of the act of June 13, 1836, say it "is derived from the 29th section of the act of 1771. We have added grandchildren to the enumeration of persons under legal obligation to relieve

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and maintain poor relations; conceiving that, as grandparents were already bound to support grandchildren, the obligation ought to be reciprocal." Wertz *v.* Blair Co., 16 Sm. 18. It was held by Judge Parsons, in a very well considered case, that, where the parents of the poor person are either unable to relieve and maintain him, or, being able, are out of the jurisdiction of the court, the obligation of the grandparents to do so is absolute, notwithstanding the fact that the parents are living. Guardians *v.* Smith, 4 Clark's Cases, 62. This decision was recognized and approved in Duffey *v.* Duffey, 8 Wr. 401. The obligation of grandparents and grandchildren having been made reciprocal by the act of 1836, the same principle applies here. It follows that, if these grandsons are of sufficient ability, it is their legal duty to relieve and maintain these old people, and that they may be proceeded against in the first instance, notwithstanding the fact set up in some of the answers, that there are children who are able to do so, for the reason that there are none of sufficient ability within the jurisdiction of the court. Judge Parsons' remark is pertinent here: "But I can find nothing in the law that requires the guardian of the poor to leave a responsible person and go to foreign parts to look for another party when they have one near them that is equally responsible with such other." This is all that is necessary to be said upon this question, but we do not mean to be understood as implying that these grandsons would not be liable if these conditions did not exist. The plain terms of the act of 1836 put children and grandchildren, so far as the public is concerned, on the same footing. If it had been intended to make the legal obligation of the latter conditional upon the death, poverty, or absence from the jurisdiction of the former, the legislature would have said so in express terms, and the doctrine of analogous cases relating to the liability of grandparents is against the introduction of such conditions in the act by judicial construction. For example, it was held that an order directing a person to pay a weekly sum for the maintenance of his grandsons is good without stating that their father is unable, absent, or dead. Lord Tenderden said: "There is nothing in the act of Parliament to show that the obligation of the grandfather is absolute only in the event of the father being unable."

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Rex *v.* Cornish, 2 B. & Ad. 498. See also Seiberts' Appeal, 7 H. 56; Duffey *v.* Duffey, *supra.*

But, without discussing this question further, we have no hesitation in concluding that, under the evidence in these cases, the liability of these grandchildren is the same as that of children. They are not discharged from their legal obligations by proof that their other grandchildren not reached by this process, or even children out of the jurisdiction of the court who are equally, if not better, able than they are. The liability of each is an individual one, and is to be measured by his individual ability. Their first duty is, of course, to the families immediately dependent upon them, and, if they are only able to discharge that duty, the law will not compel them to do more, however strongly sentimental considerations might seem to urge them to extraordinary efforts and sacrifices. If the parties served with process are not of sufficient ability, taking into consideration their duty to their immediate families to contribute the entire amount required for the maintenance of their grandparents, but still are able to contribute a portion of the amount that they may require, we have no doubt that the power of the court to fix the rates and to make necessary orders authorizes us to direct each one to furnish relief according to his ability. This results from what we have said as to their several liability.

Applying these rules to the evidence, we conclude that Henry Sands, Jonathan Sands, and William Culver are not of sufficient ability in the meaning of the law to authorize the court to make any order against them at the present time. To do so, in view of the evidence of their present incomes respectively, would seriously embarrass them in maintaining their own immediate families. But we are also of opinion that Henry H. Hadsall, the other grandson, is of sufficient ability to contribute a small amount in each case without embarrassment.

No. 130, December session, 1883.

And now, to wit: August 1, 1884, the rule as to Elsie Sands, Lewis Culver and Sally Ann Culver, his wife, Henry and Jonathan Sands, and William Culver is discharged; and same day, it appearing to the court that Elizabeth Hadsall is a poor person, not able to work, and is now a charge upon the poor district of

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Franklin township, and that Henry H. Hadsall is a grandson of sufficient ability, it is ordered and directed that the said Henry H. Hadsall pay to the poor directors of said township for the relief and maintenance of the said Elizabeth Hadsall upon pain of forfeiting the sum of ten dollars for each and every month that he shall fail therein, to be levied and applied as directed by law, the sum of one dollar and fifty cents on the first day of each and every month hereafter so long as the said Elizabeth Hadsall shall remain a poor charge as aforesaid.

No. 131, December session, 1883.

Now, August 1, 1884, the clerk is directed to enter the same order as above in the present case, substituting the name of James Hadsall for Elizabeth Hadsall wherever the same occurs.

John S. Harding, Esq., for Franklin township.

Steuben Jenkins and John Richards, Esqs., *contra.*

Court of Common Pleas of Luzerne County.

MYERS *v.* KINGSTON COAL CO.

Equity—Exceptions to answer—Costs.

1. Where the master reports that an exception to the sufficiency of an answer is sustained, and the defendant submits to the report, the costs of the reference will be imposed on him.

2. The master reported that the exception for impertinence should be dismissed for want of such clearness, precision, and particularity as the rules of equity practice require. *Held*, 1st, That the terms of the reference did not preclude the master from so reporting; 2d, That even if they did, the court might still dismiss the exceptions notwithstanding the reference.

Exceptions to report of master on exceptions to answer for impertinence.

The opinion of the court was delivered January 16, 1882, by

RICE, P. J.—The master has reported, and the defendant has submitted to the report, that the exception to the sufficiency of the answer to the fifth paragraph of the bill is well taken. For this reason the costs of this reference will be imposed on the defendant.

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The master has further reported the exception for impertinence should be dismissed for want of such clearness, precision, and particularity as the rules of equity practice require. It is contended by the exceptant that the master was precluded from thus reporting by the terms of the reference. We think the master has shown quite clearly that this is not so. But suppose it be conceded for a moment that his position is not correct, it would follow that the matter would have to be referred back to him, but this of course we would not do if the reasons given by the master convince us that the exception for impertinence is not in conformity to the rule. If the terms of the reference conclude the master, we do not think it can be seriously argued that they conclude the court, and prevent us from inquiring into the sufficiency and formality of the exception. Especially is this the case when, as here, the reference has been made without careful examination of the exception by the court. The report of the master in this particular is fully sustained by the authorities and the rule (viii. sec. 46, Rules, p. 46), and for the reason given by the master we arrive at the same conclusion which he reached.

And now, to wit: January 16, 1882, the exceptions to the report of the master are overruled, and the report is confirmed, and the exception to the answer for impertinence is dismissed. It is further ordered that the costs of this reference, including the allowance to the master, be paid by the defendant.

A. Ricketts, Esq., for plaintiffs.

H. B. Payne, Esq., for defendant.

It was decided as early as the reign of Henry V. that a contract imposing a general restraint on trade is void. Hull J. flew into a passion at the sight of a bond imposing such a condition, and exclaimed: "A ma intent vous purres aver demurre sur luy que l'obligation est voide eo que le condition est encounter common ley, *et per Dieu, si le plaintiff fuit icy, il irra al prison tanque il ust fait fine au Roy.*"

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SHERIFF'S SALES.

Abstract of property to be sold by J. S. Oberrender, Sheriff of Luzerne county, on Saturday, September 6th, A. D. 1884, at 10 o clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are numbered, to wit:

1

Suit of Benjamin D. Beyea, to the use of the First National Bank of Pittston, Pa., v. Alva Tompkins.

Bedford, Dickson & Atherton, Att'ys.

No. 1. All the coal in or under that piece of land in the borough of Pittston, county of Luzerne, beginning at a point in line of lands of the Pennsylvania Coal Company near low water mark on the Susquehanna river, thence 6 97-100 perches, thence 17 1-10 perches to a corner, thence 119 perches to a corner, thence 34 25-100 perches to a corner, thence 35 41-100 perches to a point, thence 63 6-10 perches, thence 8 48-100 perches, thence 42 27-100 perches, thence 80 15-100 perches, thence 4 2-10 perches, thence 4 5-10 perches, thence 8 6-10 perches, thence 80 6-10 perches, thence 3 9-10 perches, thence 2 47-100 perches to a corner, and thence 96 46-100 perches to the place of beginning; containing 53 acres and 47 perches of land, be the same more or less.

No. 2. Also, the surface of that piece of land in the borough of Pittston, beginning at a point near low water mark on the Susquehanna river, thence 40 perches to a corner, thence 119 perches to a corner, thence 40 perches to a corner near low water mark, and thence 119 perches to the place of beginning; containing about 20 acres of land, more or less. Nos. 1 and 2 are improved; 1 frame barn, 1 frame blacksmith shop, 1 carpenter shop, 1 powder and oil head frame and breaker building, with large pony breaker screen expressly for doing a coal mining and preparing business, screen house and pockets for capacity 400 tons, 1 engine house, boiler house, 6 50-inch by 50-feet boilers, 4 engines, 1 ventilating fan with engine, 1 large pole pump in shaft, 1 donkey pump, 1 iron stone house, 1 2-story frame dwelling with 1 story attached, 1 frame office, 1 1½-story frame dwelling house.

No. 3. Also, the surface of that piece of land in the borough of Pittston, beginning at a corner of Main and Swallow streets, thence along line of Swallow street 200 feet to a corner, thence 141 feet to a corner, thence 227 feet to Main street, thence along Main street 145 5-10 feet to place of beginning; containing 29,000 square feet, more or less; all improved, with 1 large 2-story frame dwelling house, 1 large frame office, 1 frame barn, with necessary outbuildings, all in good repair.

No. 4. Also, the one undivided half of all that piece of land in the borough of Pittston, beginning at a corner on line of lands of Pennsylvania Coal Company near bridge on old plank road, thence along the line of Main street to lands of a A. Tompkins, thence along line of said lot to Tompkins' creek, thence along said creek to lands of Pennsylvania Coal Company, thence along line of said land to place of beginning; containing about 1½ acres of land, more or less; all improved, with 1 large frame dwelling house, 1 large frame barn, 1 large frame wagon and store house combined, with necessary outbuildings.

No. 5. Also, the one undivided half of all that island in the Susquehanna river, in the township of Exeter, commonly called "Scoville's Island," beginning at an elm tree on west side of said island, thence down the western branch of said river at low water mark to the main branch of said river, thence up the main branch of said river at low water mark to the main branch of said river, thence up the main branch of said river at low water mark to the junction of said main branch with the western branch of said river at low water mark, thence down said western branch at low water mark to an elm tree at place of beginning; containing 60 acres, be the same more or less; all improved, with 1 large frame barn in good condition.

No. 6. Also, the one undivided half of all that piece of land in the township of Ransom, beginning at a white oak in a corner of lands of Anderson and Drehr, late owned by Jacob Bertles, thence 178 perches to a white oak corner, thence 142 perches to a corner, thence 144 perches to a corner of stones, thence 77 perches, thence 65 perches to place of beginning; containing about 142 acres, be the same more or less; all improved, with 1 1½-story frame dwelling house, 1 frame barn, 40 to 50 acres improved.

No. 7. Also, one undivided half of all that piece of land in the township of Ransom, beginning at a stone corner, thence 93 perches to a stone corner, thence by land now or late of William Tompkins 65 perches to a white oak corner, thence 178 perches to a white oak corner, thence 48½ perches to a stone corner, thence by lands of Conrad Rase 271 perches to a post corner, and thence 113½ perches by lands of A. Beamer to place of beginning; containing 119 acres and 48 perches, be the same more or less; excepting and reserving about 32 acres heretofore sold by William Tompkins to Philip Bafrin.

No. 8. Also, the one undivided half of all that piece of land in the township of Ransom, beginning at a white oak tree, thence by land surveyed to John Gray 79 perches to a pine tree, thence by land certified to Andrew Martin 110 perches to a post and stones, thence by lands surveyed to John Evans 79 perches to a gum tree, thence by land surveyed to Jacob Fox 110 perches to place of beginning; containing 51 acres and 40 perches, be the same more or less.

No. 9. Also, the one undivided half of all that piece of land in the township of Ransom, bounded northerly by land now or late of Joseph Pennington, westerly by lands now or late of Joseph Pennington, westerly by lands now or late of Alexander McMillan and Benjamin Smith, southerly by lands now or late of the heirs of Lord Butler, and easterly by lands of John Pennington; containing 355 acres, be the same more or less excepting and reserving 50 acres, or thereabouts, heretofore conveyed to Frederick Sandway. Nos. 7, 8, and 9 are covered with considerable good timber.

2

Suit of G. M. Harding and Abel Bennett v. Margaret D. Gates and C. N. Gates, her husband.

Bohan, Att'y.

All that lot of land in the city of Wilkes-Barre, Luzerne county, Pennsylvania, beginning at a corner on Parrish street, same being also corner of lot sold to George Seipe, thence along Seipe lot 122 feet to a corner, thence 41 8-10 feet to a corner of lot sold to H. C. Gates, thence along the same 74 feet to a corner, thence 93 feet to a corner on Parrish street, same being also the northwest corner of lot sold to H. C. Gates, thence along Parrish street to the place of beginning; all improved, and having erected thereon 1 2-story frame dwelling house, frame barn, and outbuildings.

3

Suit of Charles Brown v. Olof Johnson and Mary M. Johnson.

Brundage, Att'y.

All that tract of land in the township of Wright, county of Luzerne, and state of Pennsylvania, beginning at a heap of stones for a corner, corner also of land of late William Orr, thence by other land of Wm. Yohe, also by land of George Hildebrand and Nicholas Hildebrand 139 perches to a heap of stones for a corner, thence by land of Ripple & Lines 76 perches to a heap of stones for a corner, thence still by land of Ripple & Lines 149 5-10 perches to a stone corner, thence by other land of the said Samuel Yohe 64 perches to a stone corner, also corner of the said land of William Orr, thence by said land of William Orr 89 8-10 perches to the place of beginning; containing 100 acres and 57 perches of land; having erected thereon 1 2-story frame dwelling, 1 barn, and outbuildings.

4

Suit of Francis R. Stark, executrix of Jasper B. Stark, deceased, and Edward C. Lyned, now to the sole use of ————, Francis R. Stark, executrix of the estate of Jasper B. Stark, deceased, v. Daniel G. Driesbach.

Darlings, Att'ys.

1. All that tract of land in the township of Salem, county of Luzerne, and state of Pennsylvania, beginning in line of F. McGraw and wife between the Susquehanna river and the canal, 32 perches to a post, thence 24 perches to a post, thence 18 perches to a post, thence 6 8-10 perches to a post, thence 9 perches to a post, thence 30 perches to a post, thence 39 5-10 perches to the place of beginning; containing 4 acres

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and 114 perches strict measure; all improved, but without any buildings thereon.

2. All that piece of land, beginning at a corner in the line between James S. Campbell and Catherine Correll (or Patrick McGraw) in the centre of the public road leading from Berwick to Wilkes-Barre, thence eastward up the centre of said North Branch canal, thence westward down the centre of the canal 150 feet to a corner in the line between James S. Campbell and Charles Seybert, thence northward along the line of Charles Seybert to the centre of public road (as it now is), the place of beginning; containing a fraction of an acre, be the same more or less; including all between the centre of the road and the centre of the canal (reserving the right of the road and canal to the public) for the distance of 150 feet eastward from the line of Charles Seybert lot on the west; all improved, without any buildings thereon.

4. A certain lot of land, beginning at a corner on the main road running through the township of Salem, thence by said road 2 45-100 perches to a corner, thence by lot of Daniel G. Driesbach 2-10 perches to a corner, thence by lands of Josiah T. Beach 2 4-10 perches to a corner, and thence by other lands of Josiah T. Beach 11 1-10 perches to the place of beginning; containing 25 4-10 perches strict measure, with the appurtenances.

5

Suit of Thomas C. Else & Co. v. John L. Monro. Kisner, Att'y.

All that lot of land on the east side of Vine street, Hazleton, being the northern half of lot No. 7 and the whole of lot No. 8 in square 104 on plan of said town, beginning at a point 45 feet northward from the northeast corner of Vine and Tamarack streets, thence northward along Vine street 45 feet to lot No. 9, thence along said lot eastwardly 190 feet to an alley, thence along said alley southwardly 45 feet, thence westwardly 190 feet to the place of beginning.

6

Suit of Abel Moss, assigned to William E. Wilkinson, v. William P. Wilkinson, administrator of the estate of Wesley Hontz, deceased. O'Neill, Att'y.

All that lot of land in Ross township, beginning at a stone corner in the public road leading from Pleasant Valley to Bloomingdale, thence along said road 102 perches to a post corner, thence along lands now or late of Abel Moss 79 4-10 perches to a post corner in line of lands of Barna Sutliff, thence by said line of Sutliff's land 102 perches to a stake and stone corner in line of lands late of the estate of Paul Wolf, deceased, and thence by said line 79 4-10 perches to the place of beginning; containing 50 acres and 99 perches of land.

7

Suit of the School District of Plymouth township v. John McAnany, Charles Hutchinson, and Terence McCann. Shonk, Att'y.

1. All that tract of land in Plymouth township, Luzerne county, Pennsylvania, on the northeast corner of farm of George W. Woodward, deceased, and fronting on the Blindtown road 50 feet, and running back 150 feet to an alley 20 feet wide, being 50 feet in front and 150 feet deep, containing 7500 square feet of land, being lot No. 14 on plot of George W. Woodward, deceased; all improved, and having erected thereon 1 large 2-story frame building used for a store and dwelling house, 1 double 2-story frame dwelling house, 1 1-story frame dwelling, and outbuildings.

2. Also, all that lot of land in Plymouth township, beginning at a corner on the northeasterly side of the Plymouth road that runs from Payne's corner, thence along said road 50 feet to a corner, thence 15 feet to a corner, thence 50 feet to a corner, thence 50 feet to the beginning; containing about 7500 square feet of land, being lot No. 11 on plot of George W. Woodward, deceased; all improved, and having erected thereon 2 large double 2-story frame dwelling houses and outbuildings.

3. Also, all that lot of land in Plymouth township, beginning at the northeasterly side of the Plymouth road that runs from Payne's corner, thence along said road 50 feet to a corner, thence 150 feet to a corner, thence 35 feet to a corner, thence 160 feet to the beginning; containing about 6300 square feet of land, being lot No. 12 on plot of George W. Woodward, deceased; all improved, and having erected thereon 1 large 2-story double frame dwelling house and outbuildings.

4. Also, all that lot of land in Plymouth township, beginning at a corner on the northerly side of the Plymouth road that runs from Payne's corner, thence along said road 16 feet to a corner on the Blindtown road, thence 150 feet to a corner, thence 60 feet to a corner, thence 150 feet to the place of beginning; containing 9000 square feet of land, being lot No. 13 on plot of George W. Woodward, deceased; all improved, and having erected thereon 1 large 2-story frame hotel, 1 2-story frame store and dwelling, 1 frame barn, and outbuildings.

5. Also, all that lot of land in Plymouth township, beginning at a corner on a new road laid out by Andrew Hunlock, of Wilkes-Barre, thence along said road 46 feet to a corner, thence 178 feet to a corner, thence 130 feet to beginning; being lot No. 28 on plot of lots laid out by Andrew Hunlock; all improved, with 2 2-story frame dwellings, a small barn, and outbuildings thereon.

6. Also, all that certain farm or parcel of land in the township of Hunlock, formerly Union, bounded on the east by lands of Andrew Sorber, on the west by lands of Avery Ackley, on the north by lands of William Croop, and on the south by lands of William Turpin; containing 130 acres of land, more or less, with a 2-story frame house, barn, blacksmith shop, outbuildings, and 2 apple orchards.

8

Suit of W. M. Miller v. Samuel McGarragher.

1. All that lot of land in the city of Wilkes-Barre, beginning at a corner on Dana street and lands late of William Sharpe, deceased, running thence along said street 100 feet to a corner; thence 243 feet, be the same more or less, to a 25-foot alley; thence along said alley 100 feet to lands late of the said Sharpe; thence along lands late of the said Sharpe 243 feet, be the same more or less, to the place of beginning; containing 24,300 square feet of land, more or less; being lots Nos. 26 and 28 as designated on map of William H. Sturdevant. Excepting and reserving all the coal and other minerals, together with the unqualified right to mine and take out the whole of the same without opening for and transporting the same on and over the said lots. All improved, with 1 3-story brick dwelling house, a brick barn, fruit trees and outbuildings thereon.

2. All that lot of land in the city of Wilkes-Barre, beginning at a corner of land of Moses C. Tammany on the easterly side of Main street, thence down said Main street 45 feet to lands of Joseph Becker, thence by lands of said Becker and a line with said Main street 212 feet to other lands of said Becker, thence by line parallel with said Main street 45 feet to lands of said Moses C Tammany, and thence along said Tammany's lands and by line running at right angles to Main street to said corner of Tammany's lands, the place of beginning; containing 9540 square feet of land, more or less; all improved, with 1 2-story frame dwelling house and outbuildings thereon.

9

Suit of the Borough of Wilkes-Barre, now the City of Wilkes-Barre, v. Daniel Handley.

All that lot of land in the city of Wilkes-Barre, county of Luzerne, and state of Pennsylvania, being lots Nos. 36, 37, and 38, bounded southeasterly by Fell street, northeasterly by lot No. 39, northwesterly by lots Nos. 48, 47, and 46, and southwesterly by a 14-feet wide alley, said lot being 76 feet 8 inches in front in width on Fell street, and running back in rear in depth 108 feet 6 inches; containing 8318½ square feet of land, being the same premises sold to Daniel Handley, 20th October, 1871, at public sale by the city of Wilkes-Barre.

10

Suit of Bochroch & Frankel v. E. K. Shellhammer and Augustus Crouse, administrators of Samuel Shellhammer, deceased.

1. All that tract of land in Black Creek township, Luzerne county, Pennsylvania, beginning at a pitch pine, thence by land of Peter Smoyer 207 perches to a stones corner on line of William Shellhammer, thence by land of William Shellhammer and Peter Roberts 62 5-10 perches to stone corner on land of David Shellhammer, thence by said David Shellhammer's land 88 5-10 perches to a corner, thence 18

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perches to a corner in line of John Hart, thence by Land of said Hart 82 perches to stones, 45 3-10 perches to a corner, thence 14 8-10 perches to stones corner, thence by land of E. K Shellhammer 52 4-10 perches to stones on land of Abram Smith, thence by said Smith's land 100 perches to place of beginning: containing 106 acres and 35 perches; about 65 acres improved, with 2 2 story wood dwelling houses, a wood barn and saw mill, wagon shed and corn crib, and other outbuildings, two apple orchards, occupied by Samuel Shellhammer when he died.

2. Also, all that tract of land in Black Creek township, beginning at a pitch pine corner on land of David Shellhammer, running thence by David Shellhammer's land 101 perches to a pitch pine corner, thence 41 perches to a maple corner, thence by land of Wm. Reagan 118 perches to stones, thence 15 perches to corner on land of Samuel Shellhammer, thence by said Shellhammer's land 52 4-10 perches to stones corner, thence 14 8-10 perches to stones, 18 6-10 perches to a hemlock, 10 perches to stones, 11 9-10 perches to a corner common to lands of John Hart and Samuel Shellhammer, thence by land of John Hart 49 perches to a walnut 18 3-10 perches to a stone, 62 perches to land of Perry Boone, thence by said Boone's land 69 perches to place of beginning; containing 87 acres and 130 perches; about 25 acres improved, with 2 2-story wood dwelling houses, 1 wood barn, 1 wagon shed, 1 wood stable, 1 bone mill, 1 apple orchard.

II

Suit of Henry A. Fuller v. Henry D. Straw.

All that lot of land in Wilkes-Barre, Luzerne county, beginning at a corner on Main street adjoining lot of C. P. Kidder, thence 200 feet to a corner, thence 63 feet to a corner of lot of Kidder and Bertels, thence to a 14-foot alley along berme bank of canal, thence along said alley to a corner of lands of Mrs. A J. Davis 120 feet more or less, thence 241 feet along line of Mrs. Davis to a corner on Main street, thence along Main street to place of beginning 50 feet.

33-35

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Monday, the 15th day of September, 1884, at 10 o'clock A. M., under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, for the charter of an intended corporation, to be called the "Wilkes-Barre Casino Company," and to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements.

W. P. RYMAN,
Solicitor.

34-36

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Monday, the 15th day of September, A. D. 1884, at 10 o'clock A. M., under the Act of Assembly known as the Corporation Act of one thousand eight hundred and eighty-four, and the supplements thereto, for the charter of an intended corporation, to be called "The Drifton Game Protective Association," the character and object whereof is the preservation, protection, and propagation within the townships of Hazle, Foster, Denison, Butler, Sugarloaf, and Black Creek, in the county of Luzerne, of game and fish, and the enforcement of all laws against the unlawful taking, killing, or selling of the same, and to confer with the game protective societies of other places, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements.

ANDREW H. McCLINTOCK,
Solicitor.

34-37

IN RE ASSIGNMENT OF HEADLEY D. Benscoter. The Trustee of said Headley D. Benscoter has filed his final account, as Trustee of said Benscoter, and the same will be presented to court on Monday, September 8th, 1884, at 10 o'clock A. M., for confirmation and allowance.

JAMES M. NORRIS,
Prothonotary.

31-36

ESTATES TO BE AUDITED BY THE Orphans' Court of Luzerne county. Notice is hereby given that accounts have been filed and confirmed absolutely by the court in the following estates:

1. Thomas Nallon; Thomas Maloney, Martin Gerrity, and John Nallon, executors; 2d September, 1884.

2. Thomas Lynch; Terrence Lynch, administrator; 2d September, 1884.

3. Evan P. Williams; Samuel Williams, administrator; 3d September, 1884.

4. Michael Miller; Reuben Nagle, administrator; 3d September, 1884.

5. Joseph M. Sutliff; James Crockett, executor; 4th September, 1884.

6. E. J. Milford; William R. Gibbons, administrator; 4th September, 1884.

The accounts enumerated and designated in the above list will be audited by the court, in the Court House, in the Orphans' Court room, during the session of court on the days set forth opposite the name of each estate, at which time all persons interested shall attend, if they see fit, and present their claims against said estate, or forever thereafter be debarred from coming upon said fund.

JOSEPH HENDLER,
Clerk O. C.

33-35

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by D. Mendleson, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

A. R. BRUNDAGE,
Solicitor.

34-35

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Joseph Saltzberg, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

A. R. BRUNDAGE,
Solicitor.

34-35

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Jacob Edlestein, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

A. R. BRUNDAGE,
Solicitor.

34-35

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Herman Roth, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

A. R. BRUNDAGE,
Solicitor.

34-35

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Solomon Gernstein, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

A. R. BRUNDAGE,
Solicitor.

34-35

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Jos. Phillips, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

A. R. BRUNDAGE,
Solicitor.

34-35

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W. S. PARSONS,

ALDERMAN,

WILKES-BARRE, PA.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Louis I. Fisher, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

D. L. O'NEILL,
35-36 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by David Cohen, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

JOHN D. HAYES,
35-36 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Marks Livenkeend, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

JOHN D. HAYES,
35-36 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Abram Krigger, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

JOHN D. HAYES,
35-36 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Lewis Amoskey, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

JOHN D. HAYES,
35-36 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Samuel Bloch, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

S. J. STRAUSS,
34-35 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Thos. J. Wheatley, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

D. L. O'NEILL,
35-36 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by A. Rosenthal, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

D. L. O'NEILL,
35-36 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Levi Fisher, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

D. L. O'NEILL,
35-36 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Joseph Elowitz, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

J. L. LENAHAN,
35-36 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by David Mendelson, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

J. L. LENAHAN,
35-36 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Barney Gotlieb, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

D M. JONES,
35-36 Solicitor.

WIDOWS' APPRAISEMENTS.

Notice is hereby given to all persons concerned, that widows' appraisements in the following estates have been approved nisi by the Orphans' Court of Luzerne county, and, unless exceptions are filed, will be presented for final approval on Monday, the 1st day of September, 1884:

Harrison Heavner, Daniel Price, Thomas B. Peters, Samuel Bigley, Jacob Ocksenreider, Benton W. Ide, William W. Dietrick, B. H. R Davenport, Isaac B. Harned, and Martin Kennedy, deceased.

JOSEPH HENDLER,
33-35 Clerk O. C.

ESTATE OF HENRY W. COHEE, LATE OF Plains township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE W. COHEE,
L. H. BENNETT, Plains, Pa.
Attorney. 29-35

ESTATE OF HENRY BECHLUFT, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE STEGMAIER,
W. S. McLEAN, Wilkes-Barre, Pa.
Attorney. 30-35

ESTATE OF JOHN E. RAINOW, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOSIAH LEWIS,
J. G. MILLER, Wilkes-Barre, Pa.
Attorney. 31-36

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ESTATE OF JOHN GREENAWALT, LATE of Hanover township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARRY HAKES,
30-35 Wilkes-Barre, Pa.

ESTATE OF CASPAR SHAFFAR, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

FREDERICK WETTERAU,
31-36 Hazleton, Pa.

ESTATE OF SAMUEL DUTT, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELIZABETH DUTT,
ELIAS ROBINS,
31-36 Wilkes-Barre, Pa.

ESTATE OF MARY W. THOMAS, LATE OF Plymouth, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

ISAAC D. WILLIAMS,
JOHN ROWE,
JOHN LYNCH, Plymouth, Pa.
Attorney. 31-36

ESTATE OF ANN TIGUE, LATE OF KINGston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

PATRICK TIGUE,
30-36 Kingston, Pa.

ESTATE OF HIRAM A. STOCKER, LATE of Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EMMA E. STOCKER,
30-36 Wilkes-Barre, Pa.

ESTATE OF CHARLES H. GARRISON, LATE of Plymouth township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

S. R. FERRELL,
30-36 Kingston, Pa.

ESTATE OF HORATIO MULFORD, LATE OF Kingston township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH E. MULFORD,
HENRY COURTRIGHT,
L. D. SHOEMAKER, Orange, Pa.
Attorney. 29-36

ESTATE OF ANTONETTE BECK, LATE OF Franklin township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES H. COOKE,
H. B. PAYNE, Dallas, Pa.
Attorney. 30-36

ESTATE OF WILLIAM S. SHOEMAKER, late of Kingston township, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

R. H. WEIR,
DICKSON & ATHERTON, Wyoming, Pa.
Attorneys. 30-37

ESTATE OF WILLIAM ATHERHOLT, LATE of Kingston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

J. BRACE,
ISAAC P. HAND, Luzerne, Pa.
Attorney. 33-38

ESTATE OF CHARLOTTE KEIPER, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

LEOPOLD KEIPER,
35-40 Wilkes-Barre, Pa.

ESTATE OF JOHN P. KIRCHER, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARGARET KIRCHER,
35-40 Hazleton, Pa.

ESTATE OF SARAH MASTERS, LATE OF Salem township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WESLEY RABERT,
C. B. JACKSON, Beach Haven, Pa.
Attorney. 35-40

ESTATE OF REUBEN D. ARNOLD, LATE of Shickshinny, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

M. H. ARNOLD,
M. E. WALKER, Shickshinny, Pa.
Attorney. 35-40

ESTATE OF JOHN KNORR, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE KNORR,
35-40 Wilkes-Barre, Pa.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, SEPTEMBER 5, 1884. No. 36.

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Court of Quarter Sessions of Luzerne County.

COMMONWEALTH *v.* GOUGH.

The defendant was a permanent boarder at the hotel of the prosecutor. He left without saying to any person connected therewith that he was going, and without paying for the food or accommodations furnished him. On argument of the rule for a new trial, counsel for the prisoner contended that a permanent boarder was not within the meaning of the statute of 1876, P. L. 45, and that only a transitory guest who obtained food and accommodations within the meaning of the statute could be convicted. *Held*, 1, that under this statute there is no distinction between a guest and a permanent boarder; and 2, that the statute includes "every person" who, with intent to defraud, obtains food or accommodations.

Rule for a new trial.

The opinion of the court was delivered by

HANDLEY, J.—The defendant in this case was charged with having obtained credit and accommodations at the hotel of C. M. Steel, in the city of Wilkes-Barre, and that, after having obtained such credit, he "did abscond from said hotel, and did surreptitiously remove" his baggage and property therefrom. To this charge the defendant plead not guilty, and went to trial. The jury returned a verdict of guilty; whereupon the defendant filed reasons for a new trial and in arrest of sentence. The reasons having been mislaid, we are unable to state them. Counsel for the defendant, however, on argument of this rule, contends that there is a great difference between a permanent boarder and a guest; that the law under which this defendant is indicted does not cover the case of a permanent boarder; it simply provides for the case of transitory guests who are staying at the hotel; and that, before a person can be convicted under this statute, it must be shown by the evidence that he removed his baggage surrepti-

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tiously. The act of 1876, P. L. 45, allows no such distinction. It says "that every person who shall, at any hotel, inn, or boarding-house, receive, or cause to be furnished, any food or accommodations with intent to defraud the owner or proprietor of such hotel * * out of the value or price of such food or accommodations, etc." These words are certainly broad enough to cover permanent boarders as well as staying guests. The evidence shows that Gough went to board in this hotel on the 26th of June, and left on the 11th of September without giving any notice to the proprietor or his agents, and also without paying his bill. It is also contended that the court erred in charging the jury that they had simply "to pass upon the question whether he did abscond, or whether he removed his baggage in the manner charged in the indictment." In another part of our charge, we used the exact words laid in the indictment. It is claimed, however, that the word "or" must have misled the jury; that the statutory word "and" should have been used in the charge. It has been held that some single offences may be committed in different ways. 1 Bishop, Cr. Law, sec. 785. Hence we left it with the jury to say, under the evidence, whether the defendant did abscond, or whether he did surreptitiously remove his baggage. If he absconded, after having obtained food and accommodations in the manner charged in the indictment, without paying for the same, then the offence against the statute was complete; or, if he left this hotel in the ordinary way, but without paying for the food and accommodations obtained in the manner charged in the indictment, and afterwards surreptitiously removed his baggage, the offence within the meaning of the statute was also complete. A defendant may be convicted upon evidence of any one of the five enumerated particulars mentioned in the statute. Commonwealth *v.* Morton, 6 Luz. Leg. Reg. 208.

Rule for a new trial discharged, and the defendant is called for sentence.

John Lynch, Esq., for the rule.
Charles Pike, Esq., *contra.*

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Isaac Platt Hand was born in Berwick, Columbia county, Pennsylvania, April 5, 1843. He is a descendant of John Hand, an early puritan from Maidstone, county of Kent, England, who was one of a party that left Maidstone in 1648. On landing, they first went to Lynn, Massachusetts, but, not liking that region, they sent a delegation to the east end of Long Island, then in possession of the Shinnecock Indians, to view the land. Their report was favorable. Through the governors of the Hartford and New Haven settlements, they purchased from the Indians the town of Easthampton, Long Island, for about thirty pounds, which was paid in blankets, powder and shot, cloth, etc. They soon organized a government, by the election of selectmen and the adoption of a code of laws. They divided up a portion of the land, giving to each family a small farm and town lot, upon which houses were built. They also provided at once for the support of a pastor and the establishment of schools. In all this John Hand was one of the leading spirits. His name stands first on the documents which relate to the purchase from the Indians, and on the list of the first body of selectmen. The records show that, in 1657, John Hand, John Mulford, and Thomas Barber were the men before whom legal proceedings were conducted. Irenæus, in the *New York Observer* of August 21, 1884, thus describes Easthampton of to-day: "No village in the state of New York has undergone less change by the influence of modern improvement than Easthampton. Its one broad street, its wind mills, its geese and its graveyard, its antique, quaint and peculiar residences hold their own without fear or shame. Hundreds of city people find rest and delight in its cool, sequestered shades during the heats of summer, and seek the gently sloping beach for grateful bathing in the surf. The house in which "Home, Sweet Home" was composed is still pointed out to inquiring strangers; indeed, two are rivals for the honor, and you take your choice. Artists have made sketches of the picturesque interiors and exteriors of the old habitations that remain as specimens of what was elegant in its day, and magazines have been adorned with the illustrations. Repose is the genius of the place. Nothing is in haste. Not a minute faster does time go now than it did ten years ago when I was

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here, and, having need to use the telegraph, found the office closed, with a notice that the operator had gone crabbing. Now I went to the barber's, and a notice on the shop door informed customers that he was in town every other day. It is very restful to be in such a place. No rude alarm disturbs the quiet of this venerable retreat. It never yet has heard that most unearthly of all earthly sounds, the railroad shriek. The clear, sweet bugle blast announces the coming of the post coach, also the peripatetic vendor of clams. Rarely does the inhabitant say, 'I am sick.' Health, peace, content, and comfort dwell here from age to age, the same in substance as it was in the beginning. The forefathers of the hamlet sleep in the country churchyard, successive generations lie by their side, all waiting, with their first pastor, for the last trump to 'break up old marble' and call them to the grand assize." John Hand died in 1660. He had a son, John, who had a son, John, who had a son, Aaron, who was the grandfather of the subject of our sketch. He was an elder for years in the Fourth Presbyterian Church of Albany, N. Y. He was married to Tamar Platt at Kingsbury, N. Y., August 17, 1794. He died at Albany, N. Y., October 27, 1832, aged fifty-nine years. His wife died at Greenwich, N. J., January 16, 1854, aged eighty-one years. The father of Isaac P. Hand was Rev. Aaron Hicks Hand, D. D., who was a son of Aaron and Tamar (*nee* Platt) Hand. He was born in Albany, N. Y., December 3, 1811, and died March 3, 1880. He was a graduate of William's college, Mass., in the class of 1831. He entered Princeton seminary, N. J., as a student of theology, from which he graduated in 1837, and was licensed as a minister by the presbytery of New Brunswick, N. J., April 25, 1837, soon after which he went on account of his health to Georgia, where he supplied the churches of Roswell and Marietta from 1838 to 1841. He was ordained by the Presbytery of Flint River, Georgia, April 11, 1841, after which time he returned to the north, and supplied the church at Berwick, Pa., from 1842 to 1845. As pastor of the church at Greenwich, Warren county, N. J., from September 2, 1851, until November 2, 1870, he labored most efficiently and successfully. He was installed over the church at Palisades-on-the-Hudson, June 14, 1871, and continued in charge of it until released, September 16,

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879, in consequence of increasing infirmities. He then removed vith his family to Easton, Pa., where he spent his last days. Doctor Hand was an earnest and faithful minister of the gospel. He was a diligent student, and a writer of force and intelligence. For many years he was a trustee of Lafayette college, and from t received the degree of Doctor of Divinity. The wife of Rev. A. H. Hand was Elizabeth, youngest child of Captain John L. Boswell, of Norwich, Conn. Her father's family, for generations, had been physicians; and her grandfather, Dr. Lemuel Boswell, of Norwich, intended that his son John should follow the calling of his ancestors, but the youth could ill brook the restraints and self-denials of the profession, and took the matter into his own hands by going to sea at an early age. He rose from one position to another until he became captain, at the age of twenty, of the ship "Sally," concerning which we find the following notice in "The History of Norwich," by Miss Caulkins: "Probably the highest duty ever paid by Norwich merchants on a single cargo was in October, 1798, when the ship Sally, John L. Boswell, entering from St. Domingo, was charged at the custom house $12,121." In one of his voyages Captain Boswell's vessel was chased by pirates, overtaken, and boarded, but the crew were finally victorious. The villainous-looking cimeter now in the possession of a grandson of Captain John is a reminder of the days when those jolly sea-robbers made things lively "as they sailed" o'er the Spanish main. Having secured what was for those days a considerable fortune, he gave up a sea-faring life, and married, at about the age of thirty, Miss Hetty Coit. The remainder of Captain Boswell's life was spent in his native town, where he died in 1842, a respected and honored citizen. Miss Hetty Coit was the lineal descendant of Deacon Thomas Adgate, one of the original proprietors and settlers of Norwich in 1659.

Amos Richardson must have come to New England before 1640. We find him in Boston as early as 1645, but he was doubtless there several years before. He is described as a "merchant tailor," and was a man of great respectability and of a good estate. After the departure of Stephen Winthrop, the governor's son, for England in 1641, he was agent for him in New England, as he afterwards was for his brother John, the

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first governor of Connecticut after the charter. With Dean Winthrop and others he was one of the original grantees of Groton, Conn., though he never went there to live. He was made freeman in 1665, and removed to Stonington, Conn., in 1666, of which town he was a representative in 1676 and 1677. He was a man of strong convictions and of determined energy and will, with a good deal of original talent, kind-hearted, but never submitted to a wrong without an effort for the right. He died at Stonington August 5, 1683. Stephen Richardson, third son of Amos Richardson, was born in Boston June 14, 1652. He was a man of character and influence; lived and died in Stonington, Conn. Amos Richardson, second son of Stephen Richardson, was born in 1681. He settled in Coventry, Conn. Nathan Richardson, eldest son of Amos Richardson, was born March 20, 1725. Nathan Richardson, fifth son of Nathan Richardson, was born at Coventry, Conn., October 27, 1760, and removed to Manchester, Vermont, about 1780, and from thence to near Burlington, Chittenden county, Vermont, where he soon after died. He was an upright Christian man. William P. Richardson, son of Nathan Richardson, was born at Manchester, Vermont, July 22, 1784. In his early childhood he developed more than an ordinary aptness to learn, and excelled as a reader. During the whole period of his life, few men in his position were oftener called upon to read in public. In the Congregational church, of which he was a member, regular service at that time was always kept up on the Sabbath in the absence of the minister. On such occasions—and they occurred hundreds of times during his life-time—Mr. Richardson was invariably called upon by one of the deacons to conduct the service, and to stand in the pulpit and read a sermon to the congregation. For weeks, and sometimes months, he served in this way the church in the absence of the pastor. He studied theology under the instruction of the Rev. Ebenezer Kingsbury (the grandfather of E. P. Kingsbury, of Scranton), pastor of the Congregational church, Jericho Centre, Vermont. On account of the protracted sickness of his mother, who required his constant care, he was compelled to relinquish all thought of the clerical profession. Mr. Richardson married September 7, 1807, Laura, daughter of Captain John

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Lyman. He was an old school Jeffersonian democrat, an ardent supporter of Madison and Monroe's administrations, and a decided advocate of the war of 1812. He enlisted as a volunteer, and was an officer of his company, which was ordered to Plattsburg a short time before the battle. After the close of the war he purchased a farm near Jericho Centre, directing his attention to agricultural life. He was for many years a justice of the peace, often a member of the board of selectmen, and represented Chittenden county in the legislature of the state in 1821, 1822, and 1824. He wrote the early history of Jericho township, which was published in Thompson's Gazeeter of the state. He early became interested in the cause of education, and secured the establishment of a good academical school in his township; and was president of the first organized temperance society in his town. When more than eighty years of age, he removed, with his wife, to Butternuts, Otsego county, N. Y., spending the remainder of their days with their son-in-law, Edward Converse. Mr. Richardson, the father of J. L. Richardson, died February 28, 1871.

J. L. Richardson, the father of Mrs. I. P. Hand, was born near Jericho Centre, Chittenden county, Vermont, September 15, 1816. The county was named after one of the first and most renowned governors of the state, the county in which Colonel Ethan Allen, the hero of Ticonderoga, lived and died, the native county of Senator Edmunds, the native county of Doctor Higbee, superintendent of public instruction in Pennsylvania, and the first public school which Mr. Richardson attended was soon after taught by the father of President Arthur. His first term in the academy of his native town found him a schoolmate of Judge Poland, now and for many years a member of congress from Vermont. At the age of nineteen, Mr. Richardson taught his first school, near his native town, and soon after entered Burr seminary, at Manchester, Vermont, then under the principalship of his relative, Rev. Lyman Coleman, D. D., subsequently professor of ancient and modern history in Lafayette college, teaching winters, however, during the four years of his connection with the seminary. He left Manchester in 1842 on a visit to his sister Hannah, who, with her husband, John G. K. Truair, had charge of the

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Gilbertsville academy and collegiate institute at Butternuts, Otsego county, N. Y. He spent a year at this place, teaching in the academy, and during one term was associated with the late Rev. Reuben Nelson, D. D., who was a teacher of languages in the same institution. Mr. Richardson came to Luzerne county in 1843, and taught school for several years. In the fall of 1855, while he was principal of Madison academy, at Waverly, Pa., he was commissioned by Andrew G. Curtin, then secretary of state and superintendent of public instruction, as superintendent of the schools of Luzerne county. The act authorizing a superintendent was passed in 1854, and the late Rev. J. W. Lescher was the first superintendent, but he resigned shortly after the act went into effect. Mr. Richardson's first act as superintendent was to issue the following circular:

"*Fellow Teachers:* As you are about to enter upon the arduous and important duty of training the youthful mind, it can hardly be necessary to remind you of the responsibility attendant upon the positions you are to occupy. At least for a brief period, the moral and intellectual training of far the larger portion of the children and youth of Luzerne county will devolve upon you. Around the faithful teacher clusters a moral grandeur which no other profession can claim. You are to act directly upon the human mind, just at that period of its existence when impressions are the most lasting, and when its direction is the most easily given. With this view of the subject, parents are about to surrender to your guidance and care the most precious gifts which heaven has bestowed upon them. Remember their deep anxiety as they watch the mental and moral development of their children while under your instruction and supervision. Remember 'that, just as the twig is bent, the tree's inclined.' You are to do an important part of the work in preparing those under your charge for the practical duties of life. The great moral and political machinery of the state will soon be propelled by those who are now young. Be careful, then, how you deal with the future jewels of our country. Cultivate in them a love of study and correct thought; impress upon their young minds the principles of moral right as the only sure basis of their future usefulness. We are acquainted with many of the difficulties which

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will attend your efforts. Many of you will be without proper apparatus for your school-rooms, without a uniformity of text-books, located in miserable houses, entirely unfit for the noble design of education. But be of good cheer, for we believe a better day is coming. School directors are beginning to act in the right direction. The citizens of our thriving villages are beginning to feel uneasy when they view their splendid churches and their magnificent hotels, etc., in contrast with their small, dingy, gloomy school-houses. The contrast is producing unpleasant sensations of mind, and shows a want of propriety, harmony, and consistency. But we are rejoiced to know, that, in several places, efforts are in progress to leave these miserable school buildings to the moles and bats, and in their places erect others better fitted for the education of those of whom it was said, 'Of such is the kingdom of heaven.' If you find your school-rooms not furnished with black board surface, maps, charts, etc., urge the directors to provide them for you. If school boards see that you are anxious by any means in your power to secure the improvement of your pupils, they will not be backward in assisting you. It will become my duty to visit your schools during the winter—a duty I intend without fail to perform. We shall note the progress your schools are making, and your own tact and skill as teachers. I would suggest that you procure and read Page's Theory and Practice of Teaching, take the Pennsylvania School Journal, and you will be more likely to succeed in your profession. Keep a faithful report of the attendance, progress, and deportment of your pupils. Organize so far as you can town teachers' associations for mutual improvement in the art of teaching, and be assured of my willingness to co-operate with you in efforts to elevate the common schools of our county.

"J. L. RICHARDSON,
"County Superintendent."

Mr. Richardson did much to improve the efficiency of our schools, and as the office of county superintendent was very much opposed by a large number of our people at the first, he did much to elevate the office and gain for it the commendation of the people. He held the position for five years, and then voluntarily retired. He was succeeded in the office by Rev.

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Abel Marcy. The Richardsons are a race of teachers. They are found everywhere scattered throughout the country, in our colleges, seminaries, public schools, and in every department of scholastic labor. Of the brothers and sisters of Mr. Richardson, Betsy, Nathan, and Martin L. taught in Vermont; Mrs. Edward Converse taught in Lackawanna county more than thirty years ago; Mrs. J. G. K. Truair had charge of the ladies' department in the Gilbertsville academy and collegiate institute; Mrs. Emily Hillhouse taught an academical school in Columbus, Ohio; and Simeon L. taught in Minnesota. Thus, out of a family of ten children that grew up to manhood, eight were teachers. It is a fact worthy of note, that, during a portion of the time that J. L. Richardson was county superintendent of Luzerne county, Rev. Willard Richardson was county superintendent of Susquehanna county, and Judson Richardson was county superintendent of Sullivan county. Mr. Richardson was for six years an agent of the New York American Missionary Association, and as such addressed thousands of his countrymen in favor of the newly-created citizens of African descent. His first year's residence was in St. Louis, Mo., devoting his time to the organization of schools and employing teachers for them. He visited the states of New York, Pennsylvania, and Vermont, and raised thousands of dollars for his work among the freedmen. He is a pioneer anti-slavery man, and cast his vote for James G. Birney, John P. Hale, and other anti-slavery leaders. At the age of fourteen, he signed the pledge at a temperance meeting, of which his father was president, and he has never drank a glass of wine in his life. In two presidential campaigns, he was employed by the state committee of the temperance organization to canvass for votes, and to do all in his power to build up the cause. He has also been agent and solicitor for the *Tunkhannock Republican*, a temperance paper, and also for the *Scranton City Journal*. In 1879 he retired to a farm in Cooper township, near Danville, Montour county, Pa., where he now resides. He married June 19, 1846, Catharine Heermans, at that time living in Hyde Park (now Scranton), Pennsylvania. She was a sister of Edmond and John Heermans, and niece of the late Joseph Fellows.

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Richard Lyman, the patriarch of all the Lymans of English descent in America, was born in High Ongar, Essex county, England, and was baptized October 30, 1580. The date of his birth is not known. He married Sarah Osborne, of Halstead, in Kent. She went to America with her husband and all their children, and died in Hartford, Conn., about the year 1640, soon after the death of her husband. Mr. Lyman embarked about the middle of August, 1631, with his wife and children, in the ship "Lion," for New England, taking their departure from the port of Bristol. There went in the same ship Martha Winthrop, the third wife of John Winthrop, at that time governor of New England, the governor's eldest son and his wife and their children, also, Eliot, the celebrated apostle of the Massachusetts Indians. The ship made anchor before Boston on November 2, 1631. Richard Lyman first became a settler in Charlestown, Mass., and, with his wife, united with the church in what is now called Roxbury, under the pastoral care of Eliot, the apostle to the Indians. He became a freeman at the General Court June 11, 1635, and on October 15, 1635, he took his departure with his family from Charlestown, joining a party of about one hundred persons, who went through the wilderness from Massachusetts into Connecticut, the object being to form settlements at Windsor, Hartford, and Wethersfield. He was one of the first settlers at Hartford. The journey from Massachusetts was made in about fourteen days' time, the distance being more than one hundred miles, and through a trackless wilderness. They had no guide but their compass, and made their way over mountains, through swamps, thickets, and rivers, which were not passable but with the greatest difficulty. They had no cover but the heavens, nor any lodgings but those which simple nature afforded them. They drove with them one hundred and sixty head of cattle, and, by the way, subsisted in a great measure on the milk of their cows. The people carried their packs, arms, and some utensils. This adventure was the more remarkable as many of this company were persons of figure who had lived in England in honor, affluence and delicacy, and were entire strangers to fatigue and danger. Richard Lyman, on this journey, suffered greatly in the loss of cattle. He was one of the original proprietors of

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Hartford, and there is little doubt that he and his wife formed a connection with the first church in Hartford, of which the Rev. Thomas Hooker was pastor. His will, the first on record at Hartford, is dated April 22, 1640, is the first in the valuable collection of Trumbull, and stands Record I., p. 442, and followed by an inventory of his estate. He died in August, 1640, and his name is inscribed on a stone column in the rear of the Centre church, of Hartford, erected in memory of the first settlers of the city. His wife, Sarah, died soon afterwards. Richard Lyman is reported to have began life in the new world as a man of "considerable estate, keeping two servants."

John Lyman, known as Lieutenant Lyman, born in High Ongar, September, 1623, came to New England with his father. He married Dorcas, daughter of John Plumb, of Branford, Conn. He settled in Northampton, Mass., where he resided until his death, August 20, 1690. Lieutenant John Lyman was in command of the Northampton soldiers in the famous Falls fight, above Deerfield, May 18, 1676. Moses Lyman, son of Lieutenant John Lyman, was born in Northampton, Mass., February 20, 1623, and died February 25, 1701. Captain Moses Lyman, the only son of Moses Lyman, was born February 27, 1689, and died March 24, 1762. He married Mindwell Sheldon December 13, 1712. Simeon Lyman, son of Captain Moses Lyman, was born in 1725 in Northampton, Mass., settled in Salisbury, Conn., and joined the church in that place in 1740 by letter from the church in Northampton. He married Abigail Beebe, of Canaan, Conn., and both died in Salisbury in the year 1800. John Lyman, son of Simeon Lyman, of Salisbury, Conn., was born March 11, 1760. He married Huldah Brinsmade, of Stratford, Conn. He emigrated to Jericho, Vermont, soon after the Revolutionary war, among the first settlers of the state. He was a man of deep thought, sound judgment, and an earnest Christian. As a bold and fearless soldier and sure marksman, he served faithfully his country in the war of the Revolution. He died in 1840. Laura Lyman was born November 10, 1789, and married September 7, 1807, William P. Richardson. She died at Butternuts, Otsego county, N. Y., February 28, 1869.

In an address delivered by Hon. Lyman Tremain, a descendant

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of Richard Lyman through Simeon Lyman, at a reunion of the Lyman family, he uses this language: "How mighty and marvelous are the physical, moral, and political changes that have been wrought in the condition of our country since Richard Lyman first entered the valley of the Connecticut. These can only be briefly sketched on this occasion. Eleven years before he landed at Boston, the pilgrims had planted their footsteps upon the rock at Plymouth, and laid broad and deep the foundations of free religious worship and republican liberty. Two years before, King Charles the First had granted the charter incorporating 'The Governor and Company of the Massachusetts Bay in New England.' One year before, John Winthrop had been chosen governor of Massachusetts, and had emigrated to the colony, leaving his wife in England to follow him when her health would allow. * * * These feeble colonists have become a mighty nation. Where stood those primeval forests now stand populous cities, flourishing towns and villages, and smiling farms and farm houses, while the journey that then required fourteen days for its accomplishment is now made by the iron horse several times every day."

Isaac Platt Hand was prepared for college at Gayley's preparatory school, at Media, Pa., after which time he entered Lafayette college, from which he graduated in 1865. From June 30, 1863, to August, 7, 1863, during the late war, he was a member of Company D, Thirty-eighth regiment, Pennsylvania volunteers. From 1865 to 1867 he was principal of the Hyde Park (Scranton) public schools. He was clerk of the City Council of Scranton from 1868 to 1870. Mr. Hand read law with the firm of Hand and Post, at Scranton, and practiced there until December, 1870, when he removed to Wilkes-Barre. He was admitted a member of the Luzerne county bar November 15, 1869, and for six years was the junior member of the firm of Wright (C. E.) & Hand. Mr. Hand was elected in 1880 a member of the school board of the Third district of this city, and in 1883 was re-elected without opposition. He is now secretary of the board, and has been its presiding officer. For the past four years he has been the secretary and treasurer of the Wilkes-Barre academy, and during the past year one of the trustees of the Wilkes-Barre female institute.

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He is also grand commander for Pennsylvania of the American Legion of Honor. He is a member of the Presbyterian church, and is prominent in republican political circles. He has been chairman of the republican city committee for four years, and in 1880 was chairman of the republican county committee, but has never been a candidate for any political office. Hon. Alfred Hand, additional law judge of Lackawanna county, is his cousin. Isaac P. Hand was married May 3, 1871, to Mary Lyman Richardson, daughter of J. L. Richardson. They have five children living —Kathleen, Isaac Platt, Bayard, Laura, and Richardson Hand.

It has already been remarked that Mr. Hand has never yet held a political office. This is not because he might not have done so, had his inclinations led him in that direction. In fact, he is very generally regarded by his party friends as possessing in a marked degree qualities which fit him for public position, added to the address and energy essential to success in these days of hot rivalry for political station. Very frequently his name has been canvassed in connection with nominations for the legislature and other official honors. Up to within a short time previous to the holding of the Republican senatorial convention of the year 1884, it was quite generally expected that he would be its nominee. That he could have had that distinction for the mere asking is conceded; that he would have been pleased to accept it, had circumstances permitted, there is excellent reason for believing; but a young lawyer just coming into a paying practice, is not always wisest in yielding to such ambitions, and Mr. Hand's persistent refusal to become a candidate, though urgently solicited by many friends, was based upon that reasoning. Later on, if he lives and preserves his strength, and when the yieldings of his professional services shall have made him more independent of private clients, it is probable that he may be influenced to take the public as a client, in which event there is little doubt among those who know him best but that he could grace whatever position he may aspire to, and to which he may be selected.

His services in the school board to which he had been so long attached attest alike his devotion to the interests of popular education and his fitness as a worker in that important field.

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As an attorney, he is less given to forensic effort than to that
dustrious and searching investigation of a cause against which
mere argument, unless based upon similarly careful prepara-
n, is likely to prevail. Before the court there is far more in
e matter of what he says than in the manner of his saying it.
Personally, Mr. Hand stands high with all his acquaintances.
oroughly well read, and an earnest but good natured conver-
ionalist, he is always a popular figure in social assemblages.
s tastes, however, are unusually domestic for one who takes
ch a marked interest in politics, and all the time he can spare
m his professional and other public duties are spent in the
iet of his happy family circle.

Edmund Griffin Butler was born June 11, 1845, at Wilkes-
rre, Pennsylvania. He is a descendant of Zebulon Butler,
o emigrated to Wyoming in 1769. Zebulon Butler was born
Lyme, New London county, Conn., in 1731, and was one of
e first patriots who opposed British tyranny and dared to be
e. He entered early into the provincial service, and served
e mother country through the French war. He commenced
s military career as an ensign, and soon rose to the rank of
ptain. He participated in the memorable hardships of the
mpaign of 1758 on the frontiers of Canada, at Fort Edward,
ke George, Ticonderoga, and Crown Point. In 1762 he was
the protracted siege of Havana. On his way he was on board
e of the six vessels that were shipwrecked. All on board
rrowly escaped a watery grave. They were on the beach nine
ys before they were relieved. On August 9 the last of the
et arrived before Hávana. The defense was obstinate—the
fferings of the besiegers great. Captain Butler shared largely
the dangers of the attack—the glories of the victory. He
iled for his long absent home on October 21 in the "Royal
uke," and encountered many perils during the voyage. On
ovember 7 the ship began to leak so rapidly that it was with
fficulty that her crew were transferred to another vessel near
y before she went to the bottom. He arrived at New York

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December 21, and once more met the warm embrace of anxious relatives and friends. He had won enduring laurels; he stood high as a brave and skillful officer—an esteemed and valued citizen. He then left the army, and enjoyed the peaceful pleasures of private life until the revolutionary storm began to concentrate its fearful elements. He was ready to brave its pitiless peltings. He had rendered arduous and valuable service to the mother country; he was well qualified to repel her ungrateful conduct, and render efficient aid in the defense of his native soil. When the tocsin of war was sounded from the heights of Lexington, he promptly tendered his services—was appointed a colonel in the Connecticut line, and repaired to the post of honor and danger. He was actively engaged in the campaigns of 1777–8–9. During the last year he was commissioned colonel of the Second Connecticut regiment. He was with Washington in New Jersey, and was greatly esteemed by him. A short time previous to the revolution, he was one of a company from his native state that had purchased Wyoming valley from the Indians. Many settlers had located there, and cleared up much of the forest. Although fully remunerated for their lands, pursuant to contract made with their chiefs in grand counsel assembled, the red men were unwilling to leave a place so enchanting and congenial with their views of happiness. In this they were encouraged by the British and tories, most of the inhabitants having declared for liberty. Most of their effective force of near two hundred men was in the American army. Soon after the departure of these troops, the savages assumed a menacing attitude, manifesting a disposition to violate the terms of peace they had solemnly sanctioned when paid for their lands. Several stockade forts were erected, a company of rangers organized, and placed under the command of Captain Hewitt. Every precaution was taken to guard against surprise; the movements of the red men were narrowly watched; their apparent designs closely observed. It soon became evident that they were preparing for a bloody sacrifice. An express was dispatched to the board of war, representing the approaching danger, requesting the return of the troops, who had recently joined the army, leaving their homes exposed to all the horrors of savage cruelty, rendered more awful by the more bloodthirsty

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tories of the valley. The request was not granted at once as it should have been, and was entirely too late to ward off the fatal slaughter and carnage that took place when these brave men were within two days' march of their murdered wives, children, and friends who slumbered in death, deeply gashed with the tomahawk. In the latter part of June a number of canoes were discovered descending the river just above the valley, filled with Indian warriors. They attacked a party of the inhabitants who were at work on the banks of the Susquehanna, killing and making prisoners of ten. They were evidently concentrating their forces for the purpose of an attack upon the settlement. At that critical juncture Colonel Zebulon Butler arrived. A large body of the savages had assembled at a point on the mountain opposite Wintermoot's fort. The militia, under the command of Colonel Denison, assembled at Forty Fort on July 1. They scoured the western borders of the valley—discovered the bodies of those who had been massacred a few days before—killed two Indians, and returned. Not supposing danger so near, each man repaired to his own house for provisions. On July 3 most of the men able to bear arms assembled again at Forty Fort, amounting to about four hundred persons of all classes. Some remained in the smaller forts with their families, presuming on the delay of an attack. The command of the troops was given to Colonel Butler. They were poorly armed, and had but a small supply of ammunition. But few of them had ever been engaged in battle, and were not familiar with military tactics. In a few moments after Colonel Butler had assumed the command, news was brought that the enemy had entered the upper end of the valley, and were advancing downward. A council of war was held, and an unfortunate resolve made to march out and attempt to arrest the savages in their career of desolation and carnage. The troops proceeded some distance from the fort, and took an advantageous position on the banks of Abram's creek, near Maltby, where they supposed the enemy would pass on their way to the principal fort. There they remained for nearly an hour without seeing the foe. Another council of war was held, which resulted in adding to the error of leaving the fort, that of attacking the enemy in their

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position, contrary to the opinion of several officers, Colonel Butler among the number, who were as brave but more judicious than those who urged the fatal movement. The order to advance was given. They had not proceeded more than a mile when the advanced guard fired upon several Indians, and found Fort Wintermoot in flames. The force of the enemy was concentrated at Fort Wintermoot, amounting to one thousand one hundred effective men, consisting of Indians, tories, and British regulars. Echo returned demoniac yells of the savages from the surrounding hills—the forest resounded with the appalling war whoop. Another serious error was committed by the ill-fated Americans. Not until they were upon the battle field did they learn the superior force of the revengeful foe. As the little band approached, they found the Indians and tories formed in line, their right resting on a swamp, commanded by Indian chiefs; the left, reaching to Fort Wintermoot, headed by Colonel John Butler. Colonel Zebulon Butler led the right, and Colonel Denison the left, of the Americans to the attack. So determined was this spartan band on victory that the right of the enemy gave way in a few minutes closely pursued by Colonel Zebulon Butler. In consequence of part of the Indians passing the swamp to gain his rear, Colonel Denison ordered his men to fall back. Many supposing he had ordered a retreat, the line became confused and broken. At that unfortunate juncture, the Indians rushed upon it with such fury that it could not be rallied. At that critical moment, Colonel Zebulon Butler rode towards the left, and first learned the misfortune of Colonel Denison, and saw his men retreating in disorder. He was then between two fires, and near the advancing enemy. Before the troops on the right were apprised of the fate of the left, they were nearly surrounded by the savages, and compelled to retreat precipitately. The rout was general—the slaughter horrible—the scene terrific. But about ninety survived, among whom were Colonels Butler and Denison, who were more exposed than most of the others. The few who escaped from the dreadful carnage of that fatal day assembled at Forty Fort. So heartrending was this defeat that the surviving inhabitants were willing to submit to any terms to save their lives. In discussing the terms of surrender, it was

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insisted that Colonel Zebulon Butler and the remains of Captain Hewitt's company, being continental soldiers, should be surrendered as prisoners of war. Colonel Denison desired time to consult with his officers, which was allowed. Returning, he hastened to Wilkes-Barre, where, having an interview with Colonel Zebulon Butler, it was judged expedient that he and the fourteen men remaining of Hewitt's command should immediately retire from the valley. Ordering the men to Shamokin, Colonel Butler threw a bed upon his horse, took Mrs. Butler behind him, and that night tarried at the Nescopeck valley (now Conyngham), twenty miles from Wilkes-Barre, and from there to Gnadenhutten, on the Lehigh, where he made the following report to the board of war:

"Gnadenhutten, Penn township, July 10th, 1778.

"*Honored Sirs:* On my arrival at Westmoreland, which was only four days after I left Yorktown, I found there was a large body of the enemy advancing on that settlement. On the 1st of July, we mustered the militia, and marched toward them by the river above the settlement—found and killed two Indians at a place where, the day before, they had murdered nine men engaged in hoeing corn. We found some canoes, etc., but, finding no men above their main body, it was judged prudent to return; and as every man had to go to his own house for his provisions, we could not muster again till the 3d of July. In the meantime the enemy had got possession of two forts, one of which we had reason to believe was designed for them, though they burned them both. The inhabitants had some forts for the security of their women and children, extending about ten miles on the river, and too many men would stay in them to take care of them; but, after collecting about three hundred of the most spirited of them, including Captain Hewitt's company, I held a council with the officers, who all agreed that it was best to attack the enemy before they got any farther. We accordingly marched, found their situation, formed a front of the same extension of the enemy's, and attacked from right to left at the same time. Our men stood the fire well for three or four shots, till some part of the enemy gave way; but, unfortunately for us, through some mistake, the word *retreat* was understood from some officer on

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the left, which took so quick that it was not in the power of the officers to form them again, though I believe, if they had stood three minutes longer, the enemy would have been beaten. The utmost pains were taken by the officers, who mostly fell. A lieutenant-colonel, a major, and five captains, who were in commission in the militia, all fell. Colonel Durkee, and Captains Hewitt and Ransom, were likewise killed. In the whole, about two hundred men lost their lives in the action on our side. What number of the enemy were killed is yet uncertain, though I believe a very considerable number. The loss of these men so intimidated the inhabitants that they gave up the matter of fighting. Great numbers ran off, and others would comply with the terms that I had refused. The enemy sent flags frequently; the terms you will see in the inclosed letter. They repeatedly said they had nothing to do with any but the inhabitants, and did not want to treat with me. Colonel Denison, by desire of the inhabitants, went and complied, which made it necessary for me and the little remains of Captain Hewitt's company to leave the place. Indeed, it was determined by the enemy to spare the inhabitants after the agreement, and that myself and the few Continental soldiers should be delivered up to the savages; upon which I left the place, and came away, scarcely able to move, as I have had no rest since I left Yorktown. It has not been in my power to find a horse or man to wait on the Board till now. I must submit to the Board what must be the next step. The little remains of Hewitt's company, which are about fifteen, are gone to Shamoken, and Captain Spaulding's company, I have heard, are on the Delaware. Several hundred of the inhabitants are strolling in the country destitute of provisions, who have large fields of grain and other necessaries of life at Westmoreland. In short, if the inhabitants can go back, there may yet be secured double the quantity of provisions to support themselves, otherwise they must be beggars, and a burden to the world.

"I have heard from men that came from the place since the people gave up that the Indians have killed no persons since, but have burned most of the buildings, and are collecting all the horses they can, and are moving up the river. They likewise say the enemy were eight hundred, one half white men. I

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should be glad that, if possible, there might be a sufficient guard sent for the defense of the place, which will be the means of saving thousands from poverty, but must submit to the wisdom of Congress. I desire further orders from the honorable Board of War with respect to myself and the soldiers under my direction.

"I have the honor to be your honor's most obedient humble servant. "ZEBULON BUTLER."

On July 4 Colonel Denison entered into a capitulation with Colonel John Butler to surrender the fort on condition that the lives of the survivors should be preserved, and not further molested in person or property. These conditions were solemnly agreed to, but were most disgracefully violated. As the Indians marched in they commenced an indiscriminate plunder. Butler was appealed to, but replied that he could not control them, walked out, and left them to finish their work in their own way. Finding themselves still at the mercy of the Indians, the inhabitants fled to the nearest settlement, towards the Delaware, about fifty miles distant, through a dense wilderness and over rugged mountains. Their flight was a scene of widespread and harrowing sorrow. Their dispersion being in an hour of the wildest terror, the people were scattered, singly, in pairs, and in larger groups, as chance separated or threw them together in that sad hour of peril and distress. Let the mind picture to itself a single group, flying from the valley to the mountains on the east and climbing the steep ascent—hurrying onward and filled with terror, despair, and sorrow; the affrighted mother whose husband has fallen—an infant on her bosom—a child by the hand—an aged parent slowly climbing the rugged steep behind them. Hunger presses them severely. In the rustling of every leaf, they hear the approaching savage; a deep and dreary wilderness before them—the valley all in flames behind—their dwellings and harvests all swept away in this spring flood of ruin—the star of hope quenched in this blood-shower of savage vengeance. There is no work of fancy in a sketch like this. Indeed, it cannot approach the reality. There were in one of these groups that crossed the mountain—those of them that did not perish by the way—one hundred women and children, and but a single man to aid, direct, and protect them. Their sufferings for food

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were intense. One of the surviving officers of the battle, who escaped by swimming the river, crossed the mountain in advance of many of the fugitives, and was active in meeting them with supplies. "The first we saw on emerging from the mountains," said a Mrs. Cooper, "was Mr. Hollenback riding full speed from the German settlement with *bread!* and O! it was needed; we had saved nothing, and were near perishing; my husband had laid his mouth to the earth to lick up a little meal scattered by some one more fortunate." After their departure, the savage tories and red men laid waste the town of Wilkes-Barre and most of the houses in the valley, plundering or destroying all the property they could find. They then drove the cattle and horses to Niagara. They had fully satiated their thirst for blood —desolation was completed—vengeance was gorged—nature mourned over the dismal scene.

Colonel Zebulon Butler left Gnadenhutten and proceeded to Stroudsburg, where he met the returning Wyoming troops and a few of those who had escaped on the day of the unfortunate battle. In August he was ordered to return with such force as he could collect and take possession of Wyoming valley. On his arrival he found a few Indians, who were collecting the cattle that the main body had left. They fled precipitately without their plunder. Colonel Butler erected a new fort at Wilkes-Barre, and established a well-regulated garrison, which he commanded until the winter of 1780, keeping the tories and savages at bay, not risking a general action, but killing them off in detail by scouting parties of sharp-shooters whenever they approached the settlement. The expedition of General Sullivan in 1779 paralyzed the Indian power upon the Susquehanna, and restored a good degree of confidence in the inhabitants. In December, 1780, Colonel Butler was ordered to join the continental army, and left Captain Alexander Mitchell in command of the fort. After serving his country faithfully to the close of the war of independence, the colonel returned to the vale of Wyoming to enjoy the fruits of his perilous toils and the gratitude of the inhabitants whom he had nobly aided and protected. In January, 1774, an act was passed by the General Assembly of Connecticut enacting all the territory within her charter limits from the river Delaware

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to a line fifteen miles west of the Susquehanna into a town, with all the corporate powers of other towns in the colony, to be called Westmoreland, attaching it to the county of Litchfield, Connecticut. This town was about seventy miles square. Zebulon Butler was, on March 1, 1774, chosen moderator of the first town meeting, and also town treasurer. In November, 1776, the town was incorporated into a county, called Westmoreland, and Zebulon Butler was appointed a justice of the peace, as he had been one in the town. He was also a member of the Connecticut General Assembly from Westmoreland in the years 1774, 1775, and 1776. On August 30, 1787, after the establishment of Luzerne county, he received from the Supreme Executive Council of Pennsylvania the honorable appointment of lieutenant of the county, which he held until the office was abrogated by the new constitution of 1790. The act of assembly forming Luzerne county named Mr. Butler one of the trustees to locate and erect a court house and jail. John Butler, the grandfather of Zebulon Butler, and probably his son, John Butler, Zebulon's father, were natives of Ipswich, Essex county, England. John Butler, the elder, was born in 1653, and died March 26, 1733. He married Catharine, daughter of Richard Houghton, of New London. John Butler, the younger, married Hannah Perkins. Thomas Butler was the brother of John Butler, the elder, and was the grandfather of Colonel John Butler, the tory leader in the battle of Wyoming. The brothers, John and Thomas Butler, were residents of New London in 1682. Walter, son of Thomas Butler, received a military appointment in the Mohawk country, and in 1728 was promoted to the captaincy of the "Forts," and in 1742 his family removed from New London to join him. Captain Butler was the ancestor of Colonels John and Walter, who were associated with the Johnsons as royalists.

Zebulon Butler was thrice married. First, to Anna Lord, December 23, 1760. The fruits of this union were three children—Zebulon Butler, who died in infancy; Lord Butler; and Hannah, consort of Roswell Welles, a lawyer of handsome talents and attainments. The second wife of Colonel Butler was Lydia, daughter of Rev. Jacob Johnson, the first gospel minister of Wyoming. Their union was brief, and a son, the late Captain

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Zebulon Butler, was their only child. While on duty at West Point near the close of the war, Colonel Butler married his third wife, Phebe Haight. They had three children—the late Steuben Butler, of Wilkes-Barre; Lydia, who intermarried with George Griffin, who was admitted to the bar of Luzerne county in 1800, and for many years afterwards a leading lawyer in the city of New York. The late Rev. Edmund Griffin, whose accurate and extensive learning and brilliant talents gave promise of unusual usefulness and fame, and whose early death was so deeply lamented, was the son of George Griffin. Ann, who married John Robison, was the third child. Their only daughter married the late Hendrick B. Wright. Dearly beloved by his immediate friends, esteemed by all who knew him, the waning years of Colonel Butler were crowned with the most refined comforts of social and domestic life. He glided down the stream of time smoothly and calmly, and on July 28, 1795, he fell asleep in the arms of his Lord and Master, deeply mourned and sincerely lamented. His career closed as brightly as it had been glorious and useful. He was an amiable companion, a virtuous citizen, a consistent Christian, a brave, noble, worthy, honest man.

Lord Butler, eldest son of Zebulon Butler, that survived to manhood, was born at Lyme, Conn., February 28, 1770. Charles Miner, in his "History of Wyoming," says: "Lord Butler was but a youth in the time of the Revolution; yet he was some time in camp with his father. I mention this because associating them with officers of rank had doubtless an influence on his manners in after life. He was tall—more than six feet, straight as an arrow; his countenance manly, with bold Roman features; his manners grave and dignified. Courteous he was, but it was the courtesy of a gentleman who felt the dignity of his own character; lofty and reserved to those who loved him not—no one approached him with a joke or a slap on the shoulder. A man of active business habits; he wrote a bold, free, and excellent hand, and his accounts and affairs were always in the strictest order. He rode admirably, and appeared extremely well on horseback—no one loved a nobler steed than he. An iron grey was his favorite. I have seen him an hundred times on horseback, and never indifferently mounted—never without a hand-

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some riding whip—never without gloves. These trifles will give you a better idea of the man—his appearance and habits—than perhaps a more studied description. He was always and everywhere the gentleman. Decided in his political opinions, and free in expressing them, his opponents said he was proud. If an unworthy pride was meant, the charge was unjust. But if an election was depending and he a candidate, he would neither shake hands with nor smile on a man with whom he would not have done the same as cordially if he had not been on the lists. His delicacy in this particular was probably carried rather to excess; for no truer republican ever lived—no one had a more sincere regard for his fellow men—no man was more devoted to the independence and liberty of his country. But his reserve, which enemies construed into hateur, was the result of early associations. His father, the gallant Colonel Butler, who had been much with British officers in the old French war, and with the accomplished French officers in the war of the Revolution, had a good deal of dignity and gravity about him." Lord Butler was for many years one of the most active public men in Luzerne county. Besides the militia offices which he filled, until he rose to the rank of general, he held the commission of the first sheriff of Luzerne county. On August 17, 1791, he was commissioned prothonotary, clerk of the Quarter Sessions and Orphans' Court, register and recorder of Luzerne county. From October 30, 1789, to December 20, 1790, he was a member of the Supreme Executive Council of the state. Under the constitution of 1790, a senate took the place of a council. In 1801 he was a member of the legislature of Pennsylvania. From 1815 to 1818 he was one of the commissioners of Luzerne county, and for some time held the position of county treasurer. He was the first postmaster in Wilks-Barre, and held the office from 1794 to 1802. He was one of the incorporators of the Wilkes-Barre academy, and served on the board of trustees from 1807 to 1824, the year of his death. He was for seven years president of the board. From 1806 to 1808 he was a member of the town council of the borough of Wilkes-Barre, and president of the same. He was also burgess of the borough from 1811 to 1814. In all these varied offices General Butler sustained the highest character for faithfulness and

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ability. No public servant ever deserved better of the public. If he would not condescend to flatter their prejudices, he yet delighted all with his intelligence and zeal to promote their best interests. He was a man of stern integrity, and lived and died highly respected and esteemed; while in the family and social circle, he was justly and tenderly loved. General Butler married Mary, daughter of Abel Pierce, who was the son of Major Ezekiel Pierce, one of the original settlers at Wyoming in 1763. He was the ready writer in early days, and for a succession of years clerk of the town, the records being in his handwriting. He had five sons, all grown to manhood, when he removed to Wyoming, and must therefore have been advanced towards the decline of life. Their names were Abel (father of Mrs. Butler), Daniel, John, Timothy, and Phineas. When, in June, 1778, the two independent companies were consolidated into one, under Captain Spaulding, Timothy and Phineas were commissioned first and second lieutenants. Timothy was one of the three who rode all night before the battle, arrived after the troops had marched out, followed, and fell. John was also slain in the engagement. Major Pierce was one of the members from Westmoreland to the Connecticut assembly in 1775. Among General Butler's children, Sylvina married Judge Garrick Mallery, who was admitted to the bar of Luzerne county August 8, 1810, and who was a native of Middlebury, Connecticut, where he was born April 17, 1784. He was one of the board of trustees of the Wilkes-Barre academy from 1811 to 1832. In 1828 and 1829 he was burgess of the borough of Wilkes-Barre. He was a member of the legislature of Pennsylvania during the years 1826, 1827, 1828, and 1829. He was president judge of Berks county, and afterwards of Northampton county. He died at Philadelphia July 6, 1866. Ruth Ann married Judge John N. Conyngham, who was admitted to the bar of Luzerne county April 3, 1820, and who was burgess of the borough of Wilkes-Barre in 1827 and 1828, and from 1834 to 1838. He was also a member of the town council in 1849 and 1850. He was a member of the board of trustees of the Wilkes-Barre academy from 1824 to 1838. He was born in Philadelphia in 1798, and died from the result of an accident in Mississippi in 1871. In 1839 he was commissioned

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president judge of Luzerne county, and, with the exception of the years 1850 and 1851, he remained in commission until his resignation in 1870. His sons, William L. Conyngham and Major Charles M. Conyngham, are residents of this city. His daughter, Ann, became the wife of Bishop William Bacon Stevens, of the Protestant Episcopal church. Phebe married Dr. Donaldson; Pierce married Temperance Colt; John L. married Cornelia Richards (mother of Mrs. Judge Stanley Woodward); Chester, who was admitted to the bar of Luzerne county August 8, 1820, and who was a member of the Pennsylvania legislature in 1832, 1838, 1839, and 1843, and from 1846 to 1850 a member of congress from the county of Luzerne. Rev. Zebulon Butler was for many years an esteemed pastor of a Presbyterian congregation at Port Gibson, Mississippi. Lord Butler, youngest son of General Butler by his first wife, was born October 18, 1806. He was a civil engineer by profession, but up to the year 1829 was a farmer and merchant. From 1829 to 1834 he was engineer and superintendent of the North Branch canal. From 1835 to 1839 he was engineer of the Lehigh Coal and Navigation Slack Water Company and on the railroad from White Haven to the top of the mountain. He was a pioneer coal operator at Pittston with his brother, Colonel John L. Butler, and his brother-in-law, Judge Mallery, from 1840. He followed the business until near the end of his life, which occurred November 27, 1861, in the brick house now occupied by Brown's book store, on the Public square. This house was built by his father-in-law, Joseph Slocum, in 1807, and was the first brick building and first three-story building erected in the county of Luzerne. He was a member of the town council of the borough of Wilkes-Barre from 1851 to 1855, and also from 1857 to 1859. Mr. Butler was a warm and personal friend of the late Rev. Reuben Nelson, D. D., and took an active part as one of the trustees of Wyoming seminary. He served as trustee from the opening of the seminary in 1844, and continued a member of the board until 1857. He was secretary of the board of trustees during the years 1852 and 1853. In 1860 he was an elector on the Bell and Everett presidential ticket. From 1823 to the day of his death Mr. Butler was an active member of the Franklin street Methodist Episcopal

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church. He served the church of his choice as class leader, exhorter, Sabbath school superintendent, steward, trustee, and teacher. His wife, Abi S., who is still living, was converted at a camp meeting held at Spring Brook, Luzerne (now Lackawanna) county, in September, 1821, and is the oldest surviving member of the Franklin street M. E. church. The first infant Sabbath school for white children in Wilkes-Barre was organized by Mrs. Butler in 1829. Previous to this time, a Sunday school for colored people was held in Rev. Ard Hoyt's kitchen, which was taught by Misses Hoyt, Jewett, and Bowman.

Anthony Slocombe is recorded as one of the forty-six "first and ancient purchasers," A. D. 1637, of the territory of Cohannet, which was incorporated March 3, 1639, with the name of Taunton, in New Plymouth, now Massachussetts, and from which the present townships of Taunton, Raynham, and Berkley have been organized. The interests of the several purchasers were in the ratio of six, eight, and twelve, Mr. Slocombe purchasing eight shares. Giles Slocombe, son of Anthony, was born in Somersetshire (?) England, and, coming to America, he settled in what is now the township of Portsmouth, in Newport county, Rhode Island. He and his wife were early members of the Society of Friends. The Friends' records for Portsmouth, Rhode Island, show that "Joan Slocom, the wife of old Giles, she Dyed at Portsmouth the 31st 6 mo. 1679." He died in 1682. Samuel Slocum, son of Giles, was born probably about the year 1657. He was the heir first named in his father's will in 1681. He probably married and resided in or near Newport, Rhode Island. The records of Newport previous to December 6, 1779, were carried away during the Revolutionary war, and remained in a vessel submerged in the East river, New York, for three years. The books were recovered, but were in such bad condition that much of their contents was lost past recovery. Giles Slocum, son of Samuel, was born in or near Newport, Rhode Island. He was married there November 23, 1704, by Joseph Sheffield, assistant, to Mary Paine, daughter of Ralph and Dorothy Paine, of Freetown, Massachusetts. He was admitted freeman of Newport in May, 1707, and died there previous to 1724. Hon. Joseph Slocum, son of Giles Slocum, was born in Newport,

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Rhode Island, January 30, 1706, and was married September 27, 1724, to Patience, daughter of Caleb Carr. They removed to East Greenwich township, Rhode Island, where he was admitted freeman in 1732, and became a farmer and dealer in land. He was chosen deputy to the Rhode Island General Assembly from West Greenwich—after the division of the township—in the years 1741, 1742, and 1744. But little has been ascertained concerning his later history. It is presumed that he removed to the Wyoming valley, Pennsylvania, about 1763, as he is named as one of the early settlers there by Charles Miner in his History of Wyoming, and is on the list of the first settlers at Wyoming.

Jonathan Slocum, son of Joseph, was born in East Greenwich township, Kent county, Rhode Island, May 1, 1733, and was married to Ruth Tripp, daughter of Isaac Tripp, February 23, 1757, by Ebenezer Slocum, justice of the peace. After marriage they resided in Warwick, Rhode Island. The tide of emigration which had set in a few years before this date from Connecticut to Wyoming—then claimed by Connecticut—had increased, and some residents of Rhode Island joined the movement. Joseph Slocum, his father, and Isaac Tripp, his father-in-law, removed thither about 1763, and Jonathan, leaving his family behind, followed them about 1771, as is shown by the following record:

"A lot surveyed to Colonel Lodwick Ojidirk in ye township called ye Capoose Meadow passed into the hands of Jonathan Slocum in 1771 on account of Slocum's Doeing ye Duty of a settler for Ojidirk."

This lot was within or near the limits of the city of Scranton, Pennsylvania. It appears that Jonathan Slocum returned to Rhode Island, as his name is again found on the records there as "of Warwick," in a sale of land under date of April 16, 1774. At this time his household numbered fourteen head as follows: ten children, two negro and two Indian servants. It is highly probable that he returned to the Wyoming valley the same year. He settled with his family in a house now near the corner of Canal and Scott streets, in Wilkes-Barre, and there his daughter, Frances, was seized by Indians November 2, 1778, under the following circumstances: A party of Delaware Indians visited Wyoming, and directed their way to Mr. Slocum's residence.

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Nathan Kingsley had been made prisoner by the Indians, and his wife and two sons were taken in by Mr. Slocum, and afforded the protection and comforts of a home. When the Indians came near, they saw the two Kingsley boys grinding a knife before the door. The elder of the lads was dressed in a soldier's coat, which it is presumed was the special reason of his being marked as a victim. One of the savages took deadly aim at this young man, and he fell. The discharge of the gun alarmed Mrs. Slocum, and she ran to the door, where she saw the Indians scalping the young man with the knife which he had been grinding. She secreted herself until she saw a stalwart Indian lay hold of her son, Ebenezer, a little lad who, by an injury in one of his feet, had been made lame. The idea that the little fellow would fail to keep up with the party, and would be cruelly butchered, rushed with such force upon the mind of the mother that she forgot all considerations of safety, and, running up to the Indian, and pointing at the foot of the boy, she exclaimed "The child is lame! he can do thee no good." Little Frances, about five years old, had hid, as she supposed, under the stairs, but had been discovered by the Indians. The savage dropped the boy, and seized the little girl, and took her up in his arms. All the entreaties of the mother in this case were treated with savage scorn. The oldest daughter ran away with her youngest brother, Joseph, the grandfather of the subject of our sketch, about two years old, with such speed and in such affright that the savages, after yelling hideously at her, roared out laughing. They took the remaining Kingsley boy and a colored girl, and away they went, little Frances screaming to "mamma" for help, holding the locks of hair from her eyes with one hand and stretching out the other. Charles Miner, in his History of Wyoming, says: "The cup of revenge was not yet full. December 16, 1778, Mr. Slocum and his father-in-law, Isaac Tripp, an aged man, with William Slocum, a youth of nineteen or twenty, were feeding cattle from a stack in the meadow in sight of the fort when they were fired upon by Indians. Mr. Slocum was shot dead, Mr. Tripp wounded, speared, and tomahawked. Both were scalped. William, wounded by a spent ball in the heel, escaped and gave the alarm, but the alert and wily foe had

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retreated to his hiding place in the mountain. This deed, bold as it was cruel, was perpetrated within the town plot, in the centre of which the fortress was located. Thus, in a little more than a month, Mrs. Slocum had lost a beloved child, carried into captivity, the doorway had been drenched in blood by the murder of an inmate of the family, two others of the household had been taken away prisoners, and now her husband and father were both stricken down to the grave, murdered and mangled by the merciless Indians. Verily, the annals of Indian atrocities written in blood record few instances of desolation and woe to equal this." In August, 1837, fifty-nine years after the capture, a letter appeared in the *Lancaster Intelligencer*, written by Colonel G. W. Ewing, of Logansport, Indiana, dated January 30, 1835, a year and a half previous, stating: "There is now living near this place, among the Miami tribe of Indians, an aged white woman, who, a few days ago, told me that she was taken away from her father's house on or near the Susquehanna river when she was very young. She says her father's name was Slocum; that he was a Quaker, and wore a large brimmed hat; that he lived about a half a mile from a town where there was a fort. She has two daughters living. Her husband is dead. She is old and feeble, and thinks she shall not live long. These considerations induced her to give the present history of herself, which she never would before, fearing her kindred would come and force her away. She has lived long and happy as an Indian; is very respectable and wealthy, sober and honest. Her name is without reproach." This letter, as a matter of course, awakened great interest, and her brothers, Joseph and Isaac Slocum, repaired to Logansport, where they fortunately met Mr. Ewing. The lost sister received notice of their arrival, and came to Logansport on horseback, accompanied by her two daughters, all dressed in fine Indian costume. Frances, before her captivity, had received a blow on her finger in the smithshop which crushed the bone, and when the brothers saw the wounded hand, they embraced her and burst into tears. She related the leading events of her life. She stated that she had been adopted into an Indian family, and had been kindly treated. She said that young Kingsley had died after a a few years. When grown up she had married a chief, and her

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Indian name was Maconaquah, Young Bear. In subsequent years she was again visited by her brothers and other members of the family. A life-size portrait of her was painted, and is now in possession of Mrs. Abi Slocum Butler, of this city. When arrangements were being made by the government to settle the Indians of Indiana west of the Mississippi, Mr. Slocum did not forget his sister. He petitioned congress in her behalf, and succeeded in enlisting powerful support. Hon. B. A. Bidlack took charge of the bill, and John Quincy Adams made one of his strong speeches in its support, and it became a law. The bill provided that one mile square of the reserve, embracing the house and improvement of Frances Slocum, should be granted in fee to her and her heirs forever. She remembered the kindness, and went down to the grave in a goodly old age with the gratitude of a warm heart, and wishing many blessings upon her brother. During her last sickness, which was brief, Frances Slocum refused all medical aid, declaring that, as her people were gone and she was surrounded by strangers, she wished to live no longer. She departed this life March 9, 1847, aged seventy-four years. She had Christian burial, a prayer being made at her house, and her remains conducted to the grave by a clergyman. Frances Slocum sleeps upon a beautiful knoll near the confluence of the Missisinewa and the Wabash by the side of her chief and her children, where her ashes will rest in peace until the morning of the resurrection. Mrs. Slocum died at Wilkes-Barre May 6, 1807. William Slocum, who was wounded at the time his father and grandfather were killed, was elected sheriff of Luzerne county in the year 1795, when it included the present counties of Luzerne, Lackawanna, Susquehanna, Wyoming, and the greater part of Bradford. He held that office until 1799, and then retired to his farm in Pittston township, where he was elected justice of the peace in 1806. He was classed among the prominent and influential men of his county. Judith, the oldest daughter of Mr. Slocum, married Hugh Forsman, a farmer in Wilkes-Barre. He was a subaltern in Captain Hewitt's company during the Wyoming massacre, and was one of the fifteen of that corps who escaped the slaughter, and he was the only one who brought in his gun.

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Joseph Slocum, son of Jonathan, was born at Malden, Rhode Island, April 9, 1777. He settled in his native place, and was a blacksmith and farmer. He was chosen the first captain of the "Wyoming Blues" military company in 1805. On April 28, 1851, he was appointed by Governor Johnson one of the associate judges of Luzerne county. He was a member of the town council of the borough of Wilkes-Barre during the years 1818, 1819, 1829, and 1830. He was one of the incorporators of the Wilkes-Barre academy, and was a member of the board of trustees from 1807 to 1838, twenty-five years of which time he was its treasurer. The township of Slocum and Slocum post-office were named in his honor. He married, in 1800, Sarah, a daughter of Jesse and Hannah Welding Fell, natives of Bucks county, Pennsylvania. His fourth daughter, Abi, the mother of the subject of our sketch, was born June 22, 1808, in Wilkes-Barre, Pa., and became the wife of Lord Butler.

Joseph Fell, son of John and Margaret Fell, was born at Longlands, in the parish of Rockdale, county of Cumberland, England, October 19, 1668. He learned the trade of carpenter and joiner with John Bond, of Wheelbarrow hill, near Carlisle, and worked at it as long as he remained in England. He married Elizabeth Wilson, of Cumberland, in 1698, and in 1705 immigrated to America with his wife and two children. They sailed in the Cumberland, and made the capes of Virginia in twenty-nine days from Belfast. Landing at the mouth of the Potomac, they made their way by land and water *via* Choptank, Frenchtown, and Newcastle, where they took boat for Bristol, Bucks county, Pennsylvania. He died in Buckingham, in the same county, in 1753. The family were members of the Society of Friends or Quakers.

Thomas Fell, the eighth child of Joseph Fell, married Jane Kirk, of the county of Bucks. Their first child was Jesse Fell, who was born in Buckingham April 16, 1751. On August 20, 1775, Jesse Fell and Hannah Welding, of Bucks county, were joined in marriage by Isaac Hicks, Esq., one of the justices of the peace of Bucks county, "by virtue of a marriage license by them produced under the hand and seal of the Hon. John Penn, Esq., governor and commander-in-chief of the province of Pennsyl-

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vania." In the latter part of the year 1785, Jesse Fell removed, with his wife and four children, to the Wyoming valley for the purpose of engaging in mercantile pursuits. He purchased the property at the corner of Washington and Northampton streets, and since known by his name, for forty pounds on December 21, 1787. Here he carried on a store and tavern for many years. For a long time it was the sojourning place of the judges and lawyers upon the circuit, and the *rendezvous* of many local celebrities. During 1797–98–99 the sheriff's sales of real estate were held at the "Buck," as Mr. Fell's tavern was named. Mr. Fell continued to occupy these premises and to keep open house until his death, and for many years thereafter the place was, and is now, known as "the old Fell House." A very small portion of the building is still standing, and is kept as a hotel by Charles S. Gable. On October 21, 1789, the Supreme Executive Council of Pennsylvania commissioned Mr. Fell sheriff of Luzerne county for two years. On October 23, 1790, Sheriff Fell was re-commissioned, and served a further term of two years. On January 10, 1792, Mr. Fell was appointed lieutenant of the county of Luzerne by Thomas Mifflin, governer of Pennsylvania. On April 11, 1793, Governor Mifflin appointed Mr. Fell brigade inspector of the Luzerne Militia brigade for the term of seven years. Although he was a Quaker and a professed noncombatant, Mr. Fell accepted the office and performed the duties thereof until the spring of 1798, when he was succeeded by Putnam Catlin, a member of the Luzerne county bar. Major Fell's first military experience has been described as follows: On the morning of the first parade of his brigade he took it into his head to drill a little by himself. Dressed in full regimentals, he marched out on the back porch of his house, and, placing himself in a military attitude with his sword drawn, exclaimed "Attention, Battalion! Rear rank three paces to the rear. March!" and he tumbled down into the cellar. His wife, hearing the racket, came running out saying, "Oh! Jesse, has thee killed thyself!" "Go to, Hannah," said the hero; "what does thee know about war?" On February 5, 1798, Mr. Fell was appointed by Governor Mifflin an associate judge of the courts of Luzerne county, to serve during good behavior. This position he filled

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with dignity and credit for a period of thirty-two years and a half, and terminated only by his death. In 1798 Mr. Fell was appointed town clerk of Wilkes-Barre, which position he held for several years. While the commissioners, Judge Thomas Cooper, General John Steele, and William Wilson, were settling the contested land claims, under the Compromise Act of 1799, Judge Fell was constantly employed as their clerk. He was from the beginning their right hand man—for information or for advice, and his services were inestimable. In 1804 he was appointed assistant clerk to the county commissioners. This position he held until January, 1819, when he was appointed clerk, and in this office he continued until his death. Few men wrote so plain and beautiful a hand as Judge Fell; his handwriting was indeed so excellent as to be an enviable accomplishment, and was of much value to him. On March 17, 1806, the act incorporating the borough of Wilkes-Barre was passed by the Legislature of Pennsylvania. Judge Fell was named in the act as a commissioner to issue the proclamation for holding the first election for borough officers. The proclamation was issued April 25, and the election held May 6. He was elected burgess, and served in that office for one year. Subsequently, he served four terms as burgess, from 1814 to 1818. He was a member of the borough council for many years, and he served as its president from May, 1809, to May, 1810; May, 1811, to May, 1814; and May, 1820, to May, 1823. He was a member of the first board of trustees of the Wilkes-Barre academy, which was incorporated March 19, 1807, and filled that position until his death in 1832. He was four years secretary, and three years president, of the board. In 1808 occurred that event which more than any other circumstance in the life of Jesse Fell has caused his name to be known and remembered by the people of this section of our commonwealth down to the present day. Judge Fell had seen anthracite coal burnt by blacksmiths in their fires, and he himself had used it as early as 1788 in a nailery for making wrought nails. Obadiah Gore, an early settler of Wyoming, is supposed to have been the first person who attempted to use the coal. In 1768 or 1769 he found by experiment that it was valuable in blacksmithing, and soon its use became general among the blacksmiths of

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the valley to the entire exclusion of charcoal. Mr. Fell was satisfied that it would burn in a grate properly constructed, and thus answer for family use. Turning the matter in his own mind, and gathering information and advice from Hon. Thomas Cooper, then president judge of the courts of Luzerne county, and afterwards president of Columbia college, South Carolina, who was familiar with the use of bituminous coal in England, Judge Fell and his nephew, Edward Fell, improvised a rude grate of green hickory withes. Having satisfied himself that the general design was good, the judge aided a blacksmith in forming an iron grate, which he placed in the bar-room of his house. As no little amusement had been excited at the judge's exertions to burn coal, he determined to make a suitable exhibition of the first attempt in the new grate, and accordingly gave notice to a large number of the most respectable citizens that, on the succeeding evening, his experiment would be tried. The evening came, the fire was kindled, and the coal burned with unexpected brilliancy; but only two or three of his neighbors came to witness the experiment. The others, supposing the judge had found out the fallacy of his plans, and intended to take a little innocent vengeance on them for their incredulity, very prudently tarried at home with the view of laughing at those of the invited who might have been more yielding than themselves. Among others, Judge Cooper had been invited to stop at the tavern on his way home. He did so, and saw a nice coal fire burning in the grate. Judge Cooper became very angry to find that he had been superseded in the discovery, and he walked the floor muttering to himself "that it was strange an illiterate man like Fell should discover what he had tried in vain to find out." On the day of his experiment, Judge Fell made the following entry on a fly leaf of his "Freemasons' Monitor:"

"February 11, of Masonry 5808. Made the experiment of burning the common stone coal of the Valley in a grate in a common fire place in my house, and find it will answer the purpose of fuel, making a clearer and better fire, at less expense than burning wood in the common way. "JESSE FELL.

"Borough of Wilkes-Barre,

"Feby. 11, 1808."

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His experiment succeeded beyond his sanguine expectations. He caused a substantial grate to be made and set up in his house, where it was in use for a long time. For many years it was generally considered and believed that Jesse Fell was the first person to discover that anthracite coal could be used for domestic purposes, but within the last few years evidence has been procured showing that, for several years before Fell made his experiment, anthracite coal had been successfully burned in stoves and grates by Oliver Evans and Frederick Graff, of Philadelphia, who soon after recounted their success in letters to some of their friends and acquaintances. We are indebted to the Wyoming Historical and Geological Society of this city for the following letters of Oliver Evans and Frederick Graff, in their own proper handwriting, evidencing that fact:

"Being required to give my opinion of the qualities of the Lehi coals.

"I do certify to those whom it may concern. That I have experienced the use of them in a close stove and also in a fire place that may be closed and opened at pleasure so constructed as to cause a brisk current of air to pass up through a small contracted grate on which they were laid. I find them more difficult to be kindled than the Virginia Coal, yet a small quantity of dry wood laid on the grate under them is sufficient to ignite them, which being done they continue to burn while a sufficient quantity be added to keep up the combustion, occasionally stirring them to shake down the ashes. They, however, require no more attention than other coal, and consume away, leaving only a very light and white colored ashes, producing a greater degree of heat than any other coal that I am acquainted with perhaps in proportion to their weight, they being much the heaviest. They produce no smoke, contain no sulphur, and when well ignited exhibit a vivid, bright appearance, all which render them suitable for warming rooms. And as they do not corrode mettle as much as other coals, they will probably be the more useful for Steam Engines, Breweries, Distillerys, smelting of metals, drying malt, &c. But the furnaces will require to be properly constructed, with a grate contracted to a small space, through which the air is to pass up through the coal, permitting none to pass above

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them into the flue of the chimney until they are well ignited, when the doors of the stove or furnace or close fire place may be thrown open to enjoy the benefit of the light and radiant heat in front. A very small quantity of them is not sufficient to keep up the combustion; they require nearly a cubic foot to make a very warm fire, consuming about half a bus. in about fourteen hours.

"OLIVER EVANS.

"Philadelphia, Feby. 15, 1803."

"Having made a trial of the Lehi coal some time in the year 1802, at the Pennsylvania bank, in the large stove, I found them to answer for that purpose exceeding well. They give an excellent heat, and burn lively. It is my opinion they are nearly equal to double the quantity of any other coal brought to this market for durability; of course less labour is required in attending the fire. Mr. Davis, Superintendent of the water works of Philadelphia, has also made a trial of them for the Boiler of the Engine imployed in that work, and has found them to answer well. It must be observed, a draft is necessary when first kindled. For the use of familys the fire place can be so constructed with a small expense as to have the sufficient draft required. My opinion is, they will be found cheaper than wood. They burn clean. No smoke or sulphur is observed, or any dirt flying when stirred, which is a great objection to all other coal for family use. If the chimneys for the burning of those coal are properly constructed, and a trial made, I am well convinced that most of the citizens of Philadelphia would give them preference to wood.

"FRED'K GRAFF,

"Clerk of the water works of Philadelphia.

"Phila., May 1, 1805."

In 1810 the Luzerne County Agricultural Society was organized, and Judge Fell was its first president. From 1812 to 1814 he was treasurer of the Bridgewater and Wilkes-Barre Turnpike Company, operating that part of the road running from Wilkes-Barre to Tunkhannock; and for a number of years he was one of the managers, and, in 1824, president, of the Easton and Wilkes-Barre Turnpike Company. In 1845 Fell township, Luzerne (now Lackawanna) county, was organized, and was named in honor of Judge Fell.

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Mr. Fell left surviving him three sons and five daughters. Sarah Fell, his third child and second daughter, married Joseph Slocum, of Wilkes-Barre, in 1800, and was the grandmother of the subject of our sketch. Mrs. Fell died March 7, 1816, and Judge Fell died August 5, 1830.

Edmund Griffin Butler, son of Lord Butler, was educated at the Waverly institute, Waverly, New York, and the Wesleyan university, Middletown, Connecticut, from which last named institution he graduated in 1868. He studied law with Edward P. Darling, and was admitted to the bar of Luzerne county November 17, 1869. He married December 22, 1869, Clara T. Cox, daughter of the late Henry Wellesley Hamilton Cox, of Friendsville, Pennsylvania. He was a native of England, and emigrated when a child to Susquehanna county, Pennsylvania, and was a lineal descendant of the learned Dr. Richard Cox, tutor to Edward the Sixth, one of the compilors of the liturgy, and who, in the reign of Elizabeth, was created Bishop of Ely. Mrs. Butler's mother was Caroline Peironnet, daughter of James S. Peironnet, a native of Dorchester, England. A friend said of him, "He exchanged for a home in a then uncultivated wild, in Susquehanna county, the shaven lawn and rose-wreathed cottages that lend such charms to English scenery. He often reminded me of those virtues that grace the character of an English county squire as shadowed forth by the felicitous pen of Irving. He retained a love of letters to the last." Mr. and Mrs. Butler have a family of three children—Abi H., Elsey P., and Caroline C. Butler.

Mr. Butler has inherited the best of the traits of the sturdy ancestry from which he sprang. He is a respected citizen in the community, in the early history of which his progenitors played so conspicuous a part. Without any pretence to brilliancy in his profession, he has nevertheless, by close application to his books and by manifesting a genuine, hearty interest in his cases, acquired a distinctive position therein, which is at the same time honorable and pecuniarily profitable. His practice is extensive, and almost wholly in the Common Pleas, to which he brings a natural aptitude, the fruits of a careful training and an unremitting industry.

The law is a profession in which there is much hard work to be done. Not only those who would achieve distinction in, but

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all who are dependant upon it for a livelihood, must submit to much in their practice that closely approaches drudgery. It is only the fortunate few whose names and reputations enable them to refuse employment except in leading positions and in causes involving large interests. These reap golden harvests from merely planning the strategic moves of litigation, leaving to the younger or less brilliant and otherwise less favored of the fraternity the weary work of detail which frequently calls for equal ability, and always for more intense and burdensome application. There is a certain heroism in the faithful performance of this latter part of the practice, a sacrifice of needed rest and recreation, a sternly exacting devotion to the interests of clients that are seldom even understood, much less rewarded. Yet, after all, it is mainly those who are capable of such heroism, willing to make such sacrifices in the beginning of their professional careers, who ultimately reach the top rungs of the ladder. Such men's patience and perseverance must in the end reap for them the full measure of their deservings. They are a long way on their journey, however, before the nature and worth of their work come to be recognized by those whose appreciation leads to its reward. We are led to these remarks by the reflection that Mr. Butler is one of the patient many who have thus been toiling along uncomplainingly, energetically, and never-tiring, until he has at last come to be looked upon by his brother professionals, and—what is more to the purpose—by a large number of the business community who have had the benefit of his services, as a lawyer of wide experience, sound judgment, safe in counsel, and reliable in execution.

Mr. Butler is five feet eight inches in height, heavlily built, and of commanding presence, the soul of good nature, well informed on general topics, and a companionable gentleman in every regard.

Burton Downing was born in the township of Hanover, Luzerne county, Pennsylvania, November 14, 1845. He is a descendant of an old New England family of that name. His great grandfather, Reuben Downing, came to Wyoming about 1763, in

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company with Joseph Slocum, from either Connecticut or Rhode Island. He was probably a boy or young man at that time. His name appears among the list of taxables in Wilkes-Barre in 1799. Bateman Downing, son of Reuben Downing, was born January 11, 1795, at Wilkes-Barre, Pennsylvania, in a log house on Main street, near Northampton, where the Chrystal block now stands. He was a farmer and blacksmith. On February 28, 1825, he was appointed by Governor Shulze a justice of the peace for Hanover and Newport townships, and was for upwards of forty years a justice of the peace in Hanover township. In the years 1831, 1832, 1850, and 1851, he was treasurer of Luzerne county. In 1840 he was an assistant marshal, and took the census of the greater part of Luzerne county. He married early in life Sarah, a daughter of Benjamin Cary, and removed to the farm of his father-in-law, which he subsequently purchased. Mr. Cary was a descendant in the fourth generation of John Cary (originally spelled Carew), who came from Somersetshire, near the city of Bristol, England, about 1634, and joined the Plymouth colony. The precise date of his arrival in the new world is not known, nor the date of his birth. When a youth he was sent by his father to France to perfect his education, and while absent his father died. On returning home to Somersetshire, he differed with his brothers about the settlement of their father's estate. He compromised by receiving one hundred pounds as his portion, and immediately sailed for America. We find his name among the original proprietors and first settlers of Duxbury and Bridgewater, Massachusetts. His name occurs in the original grant as well as in the subsequent deed made by Ousamequin, the sachem or chief of the Pockonocket Indians, in 1639. Mr. Cary's share was one mile wide and seven miles in length. Bridgewater was the first interior settlement in the old Plymouth colony. "Duxbury New Plantation" was incorporated into a new and distinct town, and called Bridgewater, in 1656. John Cary was elected constable, the first and only officer elected in the town that year. He was elected the first town clerk, and held the office each consecutive year until 1681. In 1667 John Cary was appointed on a jury "to lay out the ways requisite in the town." In 1667 Deason Willis and John Cary were chosen "to take in all the

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charges of the late war (King Phillips') since June last, and the expenses of the scouts before and since June." Mr. Cary was prominent among his fellows, and participated actively in town meetings; was intelligent, well educated, and public spirited. The tradition is that he taught the first latin class in the colony. Doubtless he was deeply imbued with puritan principles, and a decided Christian, as were all the Bridgewater settlers. He died in 1681. Francis Cary, son of John, was born in Bridgewater in 1648, and died in 1718. Samuel Cary, son of Francis, was born in Bridgewater in 1677, and removed from the town to Duchess county, New York. Eleazer Cary, son of Samuel, was born in Bridgewater, Massachusetts, in 1718, removed with his father and family to Duchess county, New York, and thence went as a pioneer to Wyoming valley in 1769. He married a Miss Sturdevant, and had a large family of sons and daughters, among them Benjamin Cary, the father of Mrs. Downing. The place of settlement of this family was called Carytown, now in the lower part of the city of Wilkes-Barre. John Cary, one of the sons of Eleazer Cary, was a man of herculean frame, marvelous strength, and great personal courage. He enlisted under Captain Durkee, in the Revolutionary war, and served with distinction throughout the war; was at the Wyoming massacre and escaped death. It is recorded of him that, when eighteen years of age, when the early settlers of the valley were suffering for food, he went on foot over the mountains, in the severe cold of winter, to Easton, Pennsylvania, for flour. Samuel Cary, another son, was small in stature, but active, energetic, preserving, and patriotic. He was in the battle of Wyoming, under Captain Bidlack, and was among those who escaped massacre; he was taken prisoner by the Indians, and remained a captive for six years; and was supposed to have been murdered, but unexpectedly returned in 1784 to Wyoming, having suffered incredible hardships for six long years. Nathan Cary, another son, was in the memorable battle of Wyoming, but escaped miraculously and without injury. He was a soldier in the Revolutionary war. He was the first coroner of Luzerne county. Benjamin Cary was commissioner of Luzerne county from 1813 to 1816. In 1864 Bateman Downing removed to Edgerton, Rock county, Wisconsin, where he died May 24,

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1879. An obituary of him states that "he was an influential and leading democrat of the Jacksonian stripe; and in his political integrity, his faithfulness to public trust, and his genial, social qualities as husband, father, friend, and neighbor, he was a model in his day and generation. One peculiar trait of his character was his happy faculty of giving good practical advice and counsel to young men, so that, with a well spent life, full of honor and replete with manly virtues, though dead, he still lives in the daily walks and conversations of those who are wise enough to follow his excellent example." Reuben Downing, son of Bateman Downing, and father of Burton Downing, was born in Hanover township February 16, 1822. He was brought up as a farmer, and followed that occupation for many years. From 1847 to 1853 he was deputy sheriff, under the administration of William Koons and Gideon W. Palmer respectively. In 1853 he was a candidate for sheriff against Abram Drum, but was defeated by less than a hundred votes. On May 28, 1855, he was appointed prothonotary by Governor Pollock, which he filled until the next general election. The vacancy was caused by the death of Anson Curtis, M. D., the prothonotary. During the years 1868, 1869, and 1870, he was one of the auditors of Luzerne county. In 1870 he was commissioned by Governor Geary one of the justices of the peace for Hanover township. During a portion of the late civil war, he was treasurer of the bounty fund of Hanover township, and one of the deputy provost marshals of the Twelfth congressional district of Pennsylvania. He has also held the positions of school director, judge of elections, and other local offices in his native township. Since 1870 Mr. Downing has been the real estate agent of the Lehigh & Wilkes-Barre Coal Company. He is a man of wealth, and a director of the First National bank of this city, and owns one-half of the massive structure in which the bank is located. He resides in this city. He married, in 1844, Nancy Miller, daughter of the late Barnet and Mary Miller, of Hanover township. Burton Downing, the subject of our sketch, is his only son living. He was educated in the common schools of his native township and at the academy in the borough of New Columbus, Pennsylvania. He entered the office of Lyman Hakes as a student of law, and was admitted

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to the bar of Luzerne county November 19, 1869. Mr. Downing followed his profession for a few years, and is now engaged in attending to the property interests of his father. He has also taught school in Hanover township and other localities. He is a widower, having married Emma Brown, daughter of Smith Brown. Eva Frances Downing is their only child.

Mr. Downing does not appear to have acquired that love for the allurements of the law—such as they are—that prompts so many to waste time in its practice that could probably be more profitably employed in other directions. He has rather inclined to stick closely to his first love—the farm; and the bright prospects the unusually propitious circumstances under which he is a farmer hold out to him, are such as would give almost any man ample warrant for following the plow. As already shown, he had the advantage of excellent general training, and of a first-class preceptor, and but for his preference for the humble, though probably more useful, avocation, might have gone to the first rank in our profession.

BOOK NOTICE.

FEDERAL DECISIONS. Cases argued and determined in the Supreme Circuit and District Courts of the United States. Arranged by William G. Myer. Vol. V., pp. 972. California to Conspiracy. The Gilbert Book Co., St. Louis.

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NO.	PL'FFS' ATT'YS.	PLAINTIFFS.	DEFENDANTS.	DEF'TS' ATT'YS.	NO.	TERM.	YR.	ACTION.	PLEA.
1	. . . . .	J. H. Barnes	W. J. Smith	O'Neill	444	May .	1883	Appeal	Non ass., payment with leave, setoff.
2	J. L. L.	T. T. Miller	John Kline	E. A. L.	364	Jan. .	1884	Appeal	Non ass., pay't w. leave, &c., setoff.
3	J. L. L.	John Martin	Borough of Parsons . .	Powell	460	Jan. .	1884	Appeal	Nil debit, payment with leave, &c.
4	B.	George Krebs	Oscar Heyer	McL. & G . . .	43	Feb .	1884	Assumpsit . . .	Non assumpsit.
5	J. L. L.	Richard Murphy . . .	Lehigh Valley Coal Co.	Darlings, G. M. L	333	May .	1884	Appeal	Nil debit, payment with leave, setoff.
6	. . . . .	James Keys	Waddle & Co	B. & W.	601	May .	1884	Appeal	Non ass., pay't, pay't w. leave, &c.
7	Troutman . . .	Jane Job	Holmes & Passage . .	Lamb.	696	Oct .	1883	Sheriff's inter . .	Usual plea.
8	D. & A	Romi Palmer	Cole, Grace & Monks .	McLean	43	Jan .	1884	Sheriff's inter . .	Usual plea.
9	McCartney, J. T. L	Albert Bowman et al .	Adam Godeleit	E. A. L.	368	Jan .	1884	Sheriff's inter . .	Usual plea.
10	Shonk	Anna Reynolds	Simon Reynolds . . .	Ricketts	10	June .	1884	Sheriff's inter . .	Usual plea.
11	Strauss	S. Trier.	L. & M. Kahn	McL., Gibbons .	66	Oct .	1884	Sheriff's inter . .	Usual plea.
12	Hoyt, Dickson . .	J. D. Cooper et ux. . .	Borough of Kingston .	Darte	407	April .	1875	Issue	Not guilty.
13	P., Gates	O. P. Hart et al	Hugh Cannon et al. . .	Shonk, Opp . . .	1318	May .	1877	Ejectment . . .	Not guilty.
14	J. L	John Griffiths	Pittston Coal Co. . . .	Ferris	302	Nov .	1878	Case	Not guilty.
15	Hahn	W. E. Gregory, Ad., et al.	A. B. Dreisbach, dec'd	T. F. W., H. & B	158	Jan .	1880	Appeal	Non assumpsit, pay't with leave, &c.
16	J. T. L., S . . .	Patrick Cox	R. L. Cartright	. . . . .	336	Jan .	1880	Appeal	Non ass., payment with leave, setoff.
17	E. A. L	Thomas Moran	Matthias Schwalz et al.	Troutman. . . .	283	Sept .	1880	Appeal	Not guilty.
18	Harding, McG . .	Patrick Haley et al . .	Pennsylvania Coal Co .	McClintock . . .	373	April .	1881	Case	Not guilty.
19	G. M. L., Butler.	S. M. Beard, Sons & Co	E. J. Mylotte et al. . .	J. L. L	269	May .	1881	Replevin	Non cepit, property.
20	D. & A	Pardee & Markle . . .	Thomas John, dec'd . .	Darlings	84	June .	1881	Case	Non assumpsit, pay't with leave, &c.
21	J. L	J. C. Rhone	Wilbur Lamoreux . . .	Harding, McG .	3	Sept .	1881	Case	Not guilty.
22	McAlarney . . .	John Drew	Gaylord Coal Co . . .	Payne	163	Oct .	1881	Case	Not guilty.
23	R	A. M. Wasser	H. A. Ames et ux . . .	Butler	301	Nov .	1881	Appeal	Non assumpsit, coverture.
24	O'Neill	Lewisburg National B'k	J. A. Brodhead	Harding, McG .	294	Jan .	1882	Assumpsit . . .	Non ass., pay't w. leave, setoff, &c.
25	McCartney . . .	Henry Cohen	C. S. Stark, dec'd . . .	Darlings, Rich'ds	81	Feb .	1882	Assumpsit . . .	Non as., not guilty, p. w. l., setoff, &c.
26	Hahn.	J. S. Sickler	Patrick Cannon	J. L. L	396	May .	1882	D. S. B	Nil debit, payment with leave, &c.
27	J. L. L	Thos. Conyngham et ux	E. V. Rutter	Payne	596	May .	1882	Appeal	Not guilty.
28	Gates	F. A. Beamish	Central Express Co . .	Harding, McG .	115	Oct .	1882	Case	Not guilty.
29	Brundage	Joseph Rape et ux . .	John Smith et al. . . .	Harding, McG .	548	Oct .	1882	Ejectment . . .	Not guilty.
30	McLean	Thomas Kennedy . . .	Patrick Whalen et al. .	McGahren . . .	100	Nov .	1882	Ejectment . . .	Not guilty.

SECOND WEEK—OCTOBER 13, 1884.

1	Osborne	W. F. Peck et ux . . .	Josiah Ruggles et al . .	Harding, Hahn .	112	Jan . .	1869	Ejectment . . .	Not guilty.
2	Farnham	Eaton & Co	Elisha Beers et ux. . .	C., S	563	May .	1876	Debt	Non ass., pay't w. l., &c., coverture.
3	Ricketts	John H. Wilson	A. E. Burr	E., R	1026	Nov .	1877	Case	Not guilty.
4	J. T. L., E. A. L	John Gallagher	R. Davis	H. & B	380	Sept .	1879	Case	Not guilty.
5	Ricketts, T . . .	Samuel Frauenthal . .	Thompson Derr & Bro.	Harding, Derr, P	239	Jan .	1880	Case	Not guilty.
6	J. L.	Patrick McDade . . .	James Campbell . . .	McL & J	415	June .	1880	Appeal	Non assumpsit, pay't with leave, &c.
7	Gates	Joseph Monroe et ux. .	J. S. Koons	Miller	308	Sept .	1880	Ejectment . . .	Not guilty.
8	J. T. L.	Christian Thiel	City of Wilkes-Barre .	McLean	475	April .	1881	Case	Not guilty.
9	Jenkins	Evan J. Thomas et al .	Lawrence Crogan et al.	Darte	97	June .	1881	Ejectment . . .	Not guilty.
10	Jenkins	James B. Drake	F. B. Dodson et al. . .	Gates, Brundage	453	Sept .	1881	Trespass	Not guilty.

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SECOND WEEK—OCTOBER 13, 1884—CONCLUDED.

NO.	PL'FFS' ATT'YS.	PLAINTIFFS.	DEFENDANTS.	DEF'TS' ATT'YS.	NO.	TERM.	YR.	ACTION.	PLEA.
11	Gates	F. B. Dodson et ux	J. B. Drake et al.	Jenkins	543	Sept.	1881	Case	Not guilty.
12	Harding, McG.	James S. Slocum	Pa. & N.Y. Can. & R.R.Co	Darlings, Palmer	17	Nov.	1881	Tr. qua. cla. freg	Not guilty.
13	McLean	John G. Wood	A. J. Allabach et al	Ricketts	33	Jan.	1882	Ejectment	Not guilty.
14	Gates, E. D. N.	Catharine Hopper et al.	Jasper Winans	Osborne	44	Feb.	1882	Ejectment	Not guilty.
15	D. & A.	John Elliott	Central Poor District	O'Neill	82	Feb.	1882	Appeal	Non assumpsit.
16	Darte	R. H. Atkinson	P. J. Kinney	J. L.	578	May	1882	Case	Not guilty.
17	Bauman, McL.	Robert Rutledge, to use	A. M. Kreuger	R. C.	42	June	1882	Appeal	Not guilty.
18	McLean	Barney P. Boyle	Mackin & Boyle	J. L., J. L. L.	290	Oct.	1882	Case	Non assumpsit, pay't with leave, &c.
19	J. L.	Dr. F. L. Haynes	Sol. Taylor	Gates	699	Oct.	1884	Appeal	Non assumpsit.
20	Ricketts	Clara S. Berlin	Abram Nesbitt et al	Payne	346	Nov.	1882	Ejectment	Not guilty.
21	McLean	James Lockhart, dec'd	John Davis	Darlings, Gates	36	Jan.	1883	Sci. fa. sur judgt	Payment.
22	Hakes	Christopher Eypher	Francis Hoover	McLean	200	Jan.	1883	Ejectment	Not guilty.
23	J. T. L.	Patrick Gibbons et ux	Tp. of Kingston et al	Gates, Shonk	55	Feb.	1883	Case	Not guilty.
24	McClintocks	Pennsylvania Coal Co.	Pa. & N.Y. Can. & R.R.Co	Darlings	159	Feb.	1883	Ejectment	Not guilty.
25	Harvey	O. F. Harvey, Assignee	S. W. Trimmer	Halsey	128	May	1883	Sci. fa. sur mort	Payment with leave, &c.
26	J. L. L.	William Sutton	Isaac Read	Darte	303	May	1883	Appeal	Non assumpsit, pay't with leave, &c.
27	Payne	John D. Rogers	D. A. Labar	Hakes	35	June	1883	Appeal	Non ass., setoff, pay't w. leave, &c.
28	J. L. L.	James Casey et ux	Pennsylvania R. R. Co.	P., D. & F.	654	Oct.	1883	Appeal	Not guilty.
29	P.	W. J. Riley, Assignee	George Wagner	Martin	891	Oct.	1883	Appeal	Non ass., pay't w. leave, &c., setoff.
30	E. A. L.	C. E. Lewillin	R. S. Poole et al.	McLean	184	Nov	1883	Case	Not guilty.

THIRD WEEK—OCTOBER 20, 1884.

1	Ricketts	Edward Laughlin	J. S. Miller	Gates	477	Feb.	1871	D. S. B.	Nil debit, payment with leave, &c.
2	Farnham	Edmund James, dec'd	George P. Richards	E. A. L.	85	Jan.	1877	D. S. B.	Nil debit, pay't w. leave, setoff, &c.
3		W. L. Harvey	S. B. Price	S. B. P.	1491	Sept.	1878	Appeal	Not guilty.
4	J. T. L.	S. H. Santee	Thomas Birbeck	McLean	504	Nov.	1879	Appeal	Non ass., setoff, pay't with leave.
5	Darlings, B. & W.	Use of W. J. Romig	Dryfoos, Grier & Young'n	D. & A.	268	Jan.	1880	Debt	Nil debit, payment with leave.
6	Payne	Use of Pottsville Bank	Andrew Miller	Jenkins	94	Sept.	1880	D. S. B.	Nil debit, pay't, &c., with leave, &c.
7	McLean	City of Wilkes-Barre	Patrick McGrath	E. A. L.	12	April	1881	Sci. fa. sur mort	Payment with leave, &c.
8	Hahn	Frederika Vollman	City of Wilkes-Barre	McLean	15	May	1881	Case	Not guilty.
9	Maxee, Payne	George P. Richards	John W. Thomas, dec'd	Opp	98	June	1881	Assumpsit	Non assumpsit.
10	Shortz	Joseph D. Coons	Lazarus Moyer	Harding, McG.	575	Sept.	1881	Appeal	Non ass., pay't with leave, setoff, &c.
11	Ricketts	Michael M. Reading	Patrick McGraw	E. A. L.	158	Oct.	1881	Assumpsit	Non as., in.sex.an., p.w.l., &c., setoff.
12	Darlings	Frank Turner	J. C. Tyrrell et ux	Reynolds	191	Nov.	1881	Sci. fa. sur mort	Payment with leave, &c.
13	Harding, McG.	Philip Clifford et al	Lehigh Valley Coal Co.	Darlings	193	Jan.	1882	Case	Not guilty.
14	Strauss	Ernestina Greiner et al.	Lehigh Valley R.R. Co.	Darlings	53	Feb.	1882	Case	Not guilty.
15	McCartney	George S. Pfouts et ux.	City of Wilkes-Barre	McLean	122	Feb.	1882	Case	Not guilty.
16	Ricketts	George B. Hay	City of Wilkes-Barre	McLean	590	May	1882	Case	Not guilty.
17	Gates	David McDaniels	Daniel Sutliff	Harding, McG.	121	June	1882	Tresp. vi et armis	Not guilty.
18	Mosier	H. W. Chulbuck & Co.	Xavier Wernett	Harding	358	Oct.	1882	Appeal	Non assumpsit.
19	Edwards	Alvy Krouse	E. B. Trively	K.	733	Oct.	1882	Case	Non assumpsit, pay't with leave, &c.
20	Hahn	Charles Redmer	G. B. Markle & Co.	D. & A.	388	Nov.	1882	Appeal	Nil debit, payment with leave, &c.
21	J. T. L.	Dennis Sheridan	Thomas F. Sheridan	C.	315	Nov.	1882	Appeal	Non assumpsit
22	Hakes								

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23	P. D. & F., P., P	S. S. Winchester, dec'd	Penn'a Coal Co. et al	Dar., McCl., D. & A	28	Mar	1883	Ejectment	Not guilty.
24	J. T. L.	M. D. May	C. M Driggs et al.	Halsey	130	Mar	1883	Appeal	Non assumpsit.
25	McLean, G	I. S. Osterhout, dec'd	Lewis Landmesser	L.	282	May	1883	Assumpsit	Non assumpsit, pay't with leave, &c.
26	Sturges	H. C. Magee	Ira Davenport et al.	McAlarney	378	May	1883	Ejectment	Not guilty.
27	McLean, G	Ridgway Bank	Lewis Landmesser	L.	378	Oct.	1883	Debt	Nil debit, payment with leave, &c.
28	Shonk	Thomas J. Sorber	John P. Jones et al.	Payne	739	Oct.	1883	Appeal	Not guilty.
29	Halsey	George S. Mauser	A. Donop, dec'd	Payne	65	Nov	1883	Assumpsit	Non ass., payment with leave, setoff.
30	Hahn	Burton W. Stevens	D. E. Blanchard	McManus	307	Nov	1883	Appeal	Non assumpsit.

ORPHANS' COURT ARGUMENT LIST.

SATURDAY, SEPTEMBER 27, 1884.

1	In Re Estate of Araminda S. Rogers, deceased	Nichols, T. H. B., L	Exceptions to final account of Guardian.
2	In Re Estate of Darius L. Myers, deceased	Nichols, T. H. B., L	Exceptions to final account of Guardian.
3	In Re Estate of Joseph Sorber, deceased	Cannon, Lynch	Exceptions to final account of Guardian.
4	In Re Estate of Joseph Jaquish, deceased	Payne	Exceptions to final account of Administrator.
5	In Re Estate of Stephen Melick, deceased	Rhone, Shonk	Exceptions to final account of Executor.
6	In Re Estate of Erastus Smith, deceased	P., Richards	Exceptions to partial account of Executors.
7	In Re Estate of Jacob Billheimer, deceased	Darlings, Brundage	Exceptions to final account of Executors.
8	In Re Estate of S. E. McCormick, deceased	C., Patrick	To revoke order to sell real estate.
9	In Re Estate of Edward Boyle, deceased	Cannon, Lenahan	For rehearing of account of Guardian.
10	In Re Estate of Alexander Gray, deceased		Exceptions to audit.
11	In Re Estate of James Dolan, deceased	Cannon, Lenahan	Exceptions to audit.

ESTATE OF MARY W. THOMAS, LATE OF Plymouth, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

ISAAC D. WILLIAMS,
JOHN ROWE,

JOHN LYNCH, Plymouth, Pa.
Attorney. 31-36

ESTATE OF JOHN E. RAINOW, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOSIAH LEWIS,

J. G. MILLER, Wilkes-Barre, Pa.
Attorney. 31-36

ESTATE OF SAMUEL DUTT, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELIZABETH DUTT,
ELIAS ROBINS,

31-36 Wilkes-Barre, Pa.

ESTATE OF ANTONETTE BECK, LATE OF Franklin township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES H. COOKE,

H. B. PAYNE, Dallas, Pa.
Attorney. 30-36

ESTATE OF HORATIO MULFORD, LATE OF Kingston township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH E. MULFORD,
HENRY COURTRIGHT,

L. D. SHOEMAKER, Orange, Pa.
Attorney. 29-36

ESTATE OF WILLIAM S. SHOEMAKER, late of Kingston township, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

R. H. WEIR,

DICKSON & ATHERTON, Wyoming, Pa.
Attorneys. 30-37

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ORPHANS' COURT SALE.

Estate of Elizabeth D. Dennis, late of the city of Wilkes-Barre, Luzerne county, and state of Pennsylvania, deceased. By virtue of an order of the Orphans' Court of Luzerne county there will be exposed to public sale, at the Arbitration Room in the Court House, at Wilkes-Barre, Pa., on Saturday, September 27, 1884, at 10 o'clock a. m., all that lot of land in the city of Wilkes-Barre beginning at a corner of land late belonging to Samuel S. Cook, now deceased, on Northampton street, thence along Northampton street 40 feet to a corner, thence 160 feet to a corner on a 12-foot allley, thence along said alley 40 feet to a corner, and thence 160 feet to the beginning, containing 6,400 square feet of land, more or less, with a 1½-story frame dwelling house, frame barn and outbuildings thereon.

TERMS OF SALE.—$250 down, 25 per cent. of balance on confirmation of sale and delivery of deed, and the balance, with interest from confirmation, in 6 months from confirmation. Deferred payment to be secured on the premises.

THOMAS A. DENNIS,
R. C. SHOEMAKER, Administrator.
Attorney.
36-38

EXECUTOR'S SALE.

Estate of Edgar Green, deceased. By virtue of a power given to the executor in the will of Edgar Green, deceased, and by virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale on the premises in the towuship of Franklin, on Monday, the 29th day of September, at 10 a. m., the following two pieces of land, constituting one farm, containing about 100 acres.

1. A piece of land in the township of Franklin, being part of lot No. 11 in the first tier of lots in Northmoreland, beginning at the north corner, thence 328 rods to a stake, thence 41 rods to a stake, thence 148 rods to a white oak, thence 4 rods to a stake, thence 89 rods to a stake, thence 4 rods to a stake, thence 91 rods to a stake, thence 42 rods to the place of beginning, containing 87 acres, be the same more or less.

2. A tract of land in Franklin township, bounded north by lands of Theodore Smith and lands of estate of Edgar Green, southeast by land formerly owned by Levi Winters, the southwest line is to run so as to take in the head of the spring and no farther down toward the marsh, it being the north corner of lot that Elijah Harris bought of Samuel D Bodle, with the improvements and house and spring of water thereon. It is to extend to the above mentioned lines, be the same more or less, the lower line near the marsh is to be so as to form right angles to a line running from east corner down through the middle of the lot, containing 10 acres, be the same more or less.

The said farm is mostly improved and has a dwelling house, barn, wagon house, horse stable, and other outbuildings thereon; also 2 orchards.

TERMS OF SALE.—10 per cent. down on day of sale, 25 per cent. in 90 days from day of sale, and balance of two-thirds of the purchase money on April 1, 1885. Bond and mortgage upon the land is to be given by the purchaser to pay and secure to the widow the interest annually from day of sale on one-third of purchase money, and to pay the principal sum at death of widow.

ISAAC SUTTON,
L. W. DEWITT, Executor.
Attorney.
36-41

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 39, January term, 1884. Libel in divorce a vinculo matrimonii. Florence A. Ryman, by her next friend, Andrew Hilbert, *v.* Marshal Ryman. To Marshal Ryman—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoena having failed on account of your absence. Returnable on Monday, September 15, 1884, at 2 o'clock P. M.

E. D. NICHOLS,
36-37 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Monday, the 15th day of September, 1884, at 10 o'clock A. M., under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, for the charter of an intended corporation, to be called the "Wilkes-Barre Casino Company," and to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements.

W. P. RYMAN,
34-36 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Monday, the 15th day of September, A. D. 1884, at 10 o'clock A. M., under the Act of Assembly known as the Corporation Act of one thousand eight hundred and seventy-four, and the supplements thereto, for the charter of an intended corporation, to be called "The Drifton Game Protective Association," the character and object whereof is the preservation, protection, and propagation within the townships of Hazle, Foster, Denison, Butler, Sugarloaf, and Black Creek, in the county of Luzerne, of game and fish, and the enforcement of all laws against the unlawful taking, killing, or selling of the same, and to confer with the game protective societies of other places, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements.

ANDREW H. McCLINTOCK,
34-37 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application will be made under the Act of the General Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation of certain Corporations," approved April 29, 1874, and the supplements thereto, for the charter of an intended corporation, to be called "The Nanticoke Gas Company," the character and objects of which are the manufacture and sale of gas for lighting purposes, the inhabitants of the borough of Nanticoke and vicinity.

WM. R. GIBBONS,
36-38 Solicitor.

IN RE ASSIGNMENT OF HEADLEY BENSCOTER. The Trustee of said Headley Benscoter has filed his final account, as Trustee of said Benscoter, and the same will be presented to the court on Monday, September 8th, 1884, at 10 o'clock A. M., for confirmation and allowance.

JAMES M. NORRIS,
31-36 Prothonotary.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Louis I. Fink, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

D. L. O'NEILL,
35-36 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by David Cohen, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

JOHN D. HAYES,
35-36 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Marks Lukeend, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

JOHN D. HAYES,
35-36 Solicitor.

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NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Abram Krigger, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

JOHN D. HAYES,
35-36 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Lewis Amoskey, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

JOHN D. HAYES,
35-36 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Thos. J. Wheatley, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

D. L. O'NEILL,
35-36 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by A. Rosenthal, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

D. L. O'NEILL,
35-36 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Levi Fisher, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

D. L. O'NEILL,
35-36 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Joseph Elowitz, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

J. L. LENAHAN,
35-36 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by David Mendelson, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

J. L. LENAHAN,
35-36 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Barney Gotlieb, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

D M. JONES,
35-36 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Israel Mendelson, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

P. H. CAMPBELL,
36-37 Solicitor.

ESTATE OF CASPAR SHAFFAR, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

FREDERICK WETTERAU,
31-36 Hazleton, Pa.

ESTATE OF CHARLOTTE KEIPER, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

LEOPOLD KEIPER,
35-40 Wilkes-Barre, Pa.

ESTATE OF JOHN P. KIRCHER, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARGARET KIRCHER,
35-40 Hazleton, Pa.

ESTATE OF HENRIETTA LUDWIG, LATE of Hazleton, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

C. W. KLINE,
36-41 Hazleton, Pa.

ESTATE OF HENRY BROWN, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

R. J. FLICK,
36-41 Wilkes-Barre, Pa.

ESTATE OF JAMES B. HOPKINS, LATE OF Pittston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY HOPKINS,
36-41 Scranton, Pa.

ESTATE OF HENRY HONEYWELL, LATE of Dallas township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES H. COOKE,
36-41 Dallas, Pa.

WILLIAM S. McLEAN,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

CHAS. D. FOSTER,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

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ESTATE OF ANN TIGUE, LATE OF KINGston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

PATRICK TIGUE,
30-36 Kingston, Pa.

ESTATE OF HIRAM A. STOCKER, LATE of Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EMMA E. STOCKER,
30-36 Wilkes-Barre, Pa.

ESTATE OF CHARLES H. GARRISON, LATE of Plymouth township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

S. R. FERRELL,
30-36 Kingston, Pa.

ESTATE OF JOHN KNORR, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE KNORR,
35-40 Wilkes-Barre, Pa.

ESTATE OF WILLIAM ATHERHOLT, LATE of Kingston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. J. BRACE,
ISAAC P. HAND, Luzerne, Pa.
Attorney. 33-38

ESTATE OF SARAH MASTERS, LATE OF Salem township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WESLEY RABERT,
C. B. JACKSON, Beach Haven, Pa.
Attorney. 35-40

ESTATE OF REUBEN D. ARNOLD, LATE of Shickshinny, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

M. H. ARNOLD,
M. E. WALKER, Shickshinny, Pa.
Attorney. 35-40

W. S. PARSONS,

ALDERMAN,

WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, SEPTEMBER 12, 1884. No. 37.

Court of Common Pleas of Luzerne County.

KINGETER *v.* STRITZINGER.

Appeal.

An appeal in a wages case will be stricken off where the affidavit required was not filed, the appellant being duly notified by the magistrate that it was necessary.

Rule to strike off appeal.

The opinion of the court was delivered July 21, 1884, by

RICE, P. J.—In view of the facts that the defendant had a legal adviser in the suit before the alderman, and that the alderman told him (the defendant) that an affidavit was necessary to an appeal, we do not think that he can urge ignorance of the requirements of the law as an excuse for not making it.

But the defendant, while admitting that the alderman told him that he must make an affidavit, testifies that, when he gave him the transcript, the alderman told him that everything was all right. How the alderman could have told him that, in view of what had been said before, without a most deliberate intent to deceive and mislead the defendant, we cannot understand. Even in the absence of denial by the alderman, it would be difficult to conclude that any magistrate would be capable of such unfair and dishonorable conduct. The alderman does, however, deny this allegation, and says that, when he gave the defendant the transcript, he again told him that an affidavit was required, and that he feared the court would strike off the appeal. In view of the positive testimony of the magistrate, and of the fact that he could have no possible interest in deceiving the defendant as

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alleged, we conclude that the latter's allegation of misconduct by the magistrate is not satisfactorily established by the evidence.

It follows that the defendant's refusal or neglect to file the affidavit required to entitle him to an appeal are without excuse. Liberal as the courts are in permitting a defective appeal to be perfected, we think none of the cases go so far as to permit an essential to a valid appeal to be supplied under circumstances such as these. See Gordon *v.* Snyder, 2 Kulp, 308; Swallow *v.* Red Ash Coal Co., *ibid*, 333.

The rule to strike off appeal is made absolute.

J. L. Lenahan, Esq., for plaintiff.
D. L. O'Neill, Esq., for defendant.

Court of Common Pleas of Luzerne County.

BROWN *v.* THOMAS.

A defendant is entitled to the benefit of the $300 exemption law on an attachment execution, but he must make his demand within a reasonable time, and not later than the date at which the writ is returnable.

Certiorari.

The opinion of the court was delivered April 28, 1884, by

WOODWARD, J.—There is nothing of record in this case to show that the money attached in the hands of the garnishees represented the wages of manual labor. The first exception, therefore, is without force.

There can be no doubt that a defendant is entitled to the benefit of the exemption law on an attachment execution. Strouse *v.* Beeker, 2 Wr. 190, 8 Wr. 206, 2 P. F. S. 423. But he must make his demand for the exemption within a reasonable time, and not later than at the time the attachment execution is made returnable. Bittinger's Appeal, 26 P. F. S. 105. He must be diligent, 2 Wr. 190–206. See also McGentey *v.* Keefe, C. P. Schuylkill Co., 8 Luz. Leg. Reg. 179. A claim for exemption is too late if not

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made until the day of hearing. Rushworth *v.* Swope, 3 Leg. Gaz. 221. In the case before us, the defendant was duly served with the attachment, and paid no attention whatever to it, from the 2d November, 1883—the date of the service—until the 7th December, 1883, when he took this *certiorari.* He was not diligent.

The second and third exceptions are overruled, and the proceedings are affirmed.

J. T. Lenahan, Esq., for plaintiff.

J. L. Lenahan, Esq., for defendant.

Court of Common Pleas of Luzerne County.

ANSLEY *v.* ARNT.

Judgment—Opening of.

1. On an application to open a judgment the burden of proof is on the defendant, and after very long delay on his part, during which witnesses are quite likely to have forgotten the details of the transaction, he is in equity required to do something more than to cast doubt on the plaintiff's case.

2. A judgment may be opened as to a part, and the rule discharged as to the residue.

3. Monroe *v.* Monroe, 12 Nor. 520, followed.

Rule to open judgment.

The opinion of the court was delivered July 21, 1884, by

RICE, P. J.—The defendant's long delay in moving to open this judgment is a very strong circumstance against him; and if, after this lapse of time, he could show no other defense than discrepancies between the charges against him on the plaintiff's books, and the statement alleged by the latter to have been present, and to have been the basis upon which the note in controversy was ascertained, it would be entitled to very little consideration. The burden of proof is on him, and after this long delay, during which the witnesses are quite likely to have forgotten the details of the transaction, he is in equity required to do something more than to cast doubt upon the plaintiff's case.

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For example, the evidence as to an alleged double charge of the O'Malley check fails to show what the defendant claims. The amounts of the two charges are different, and it was therefore incumbent on the defendant to show that the charges relate to the same check; not on the plaintiff to show that there were two checks. Again, the allegation that the defendant was not credited in the settlement with the entire amount of cash paid by him to the plaintiff from time to time depends on the vaguest recollection, and is entirely unsatisfactory. I am unable, however, to satisfactorily account for the one hundred and twenty-five days which the defendant positively swears, and his time-book apparently shows, that he worked between April 1st and September, 1875. It is not expressly denied that he continued in the plaintiff's employment until the last named date, but on the plaintiff's books he is only given credit for two hundred and eighty-four days' work between April 1st, 1874, and August 20th, 1875. Whereas, according to the defendant's testimony and time-book, he worked four hundred and ten days in the same period. If the latter are to be given credence, the one hundred and twenty-five days' work must have been omitted in making up the amount of the defendant's indebtedness for which this note was given. In view of the defendant's testimony as to the circumstances under which the note was given, and as to the promises made at the time to correct any errors in the amount (see Monroe *v.* Monroe, 12 Nor. 520), we conclude that, as to the question of fact, there is such a conflict in the evidence as ought to be submitted to a jury.

And now, to wit: July 21st, 1884, the rule to open the judgment as to the three hundred and twelve dollars and fifty cents is made absolute, and the defendant is permitted to defend as that amount and interest thereon; issue to be framed by counsel, and submitted to the court for approval. As to the residue of the judgment, and interest on such residue, the rule is discharged.

F. C. Sturges, Esq., for plaintiff.

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ORPHANS' COURT SALE.

Estate of Elizabeth D. Dennis, late of the city of Wilkes-Barre, Luzerne county, and state of Pennsylvania, deceased. By virtue of an order of the Orphans' Court of Luzerne county there will be exposed to public sale, at the Arbitration Room in the Court House, at Wilkes-Barre, Pa., on Saturday, September 27, 1884, at 10 o'clock A. M., all that lot of land in the city of Wilkes-Barre beginning at a corner of land late belonging to Samuel S. Cook, now deceased, on Northampton street thence along Northampton street 40 feet to a corner, thence 160 feet to a corner on a 12-foot alley, thence along said alley 40 feet to a corner, and thence 160 feet to the beginning, containing 6,400 square feet of land, more or less, with a 1½-story frame dwelling house, frame barn and outbuildings thereon.

TERMS OF SALE.—$250 down, 25 per cent. of balance on confirmation of sale and delivery of deed, and the balance, with interest from confirmation, in 6 months from confirmation. Deferred payment to be secured on the premises.

THOMAS A. DENNIS,
Administrator.
R. C. SHOEMAKER,
Attorney.
36-38

EXECUTOR'S SALE.

Estate of Edgar Green, deceased. By virtue of a power given to the executor in the will of Edgar Green, deceased, and by virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale on the premises in the township of Franklin, on Monday, the 29th day of September, at 10 o'clock A. M., the following two pieces of land, constituting one farm, containing about 100 acres.

1. A piece of land in the township of Franklin, being part of lot No. 11 in the first tier of lots in Northmoreland, beginning at the north corner, thence 328 rods to a stake, thence 41 rods to a stake, thence 148 rods to a white oak, thence 4 rods to a stake, thence 89 rods to a stake, thence 4 rods to a stake, thence 91 rods to a stake, thence 42 rods to the place of beginning, containing 87 acres, be the same more or less.

2. A tract of land in Franklin township, bounded north by lands of Theodore Smith and lands of estate of Edgar Green, southeast by land formerly owned by Levi Winters, the southwest line is to run so as to take in the head of the spring and no farther down toward the marsh, it being the north corner of lot that Elijah Harris bought of Samuel D. Bodle, with the improvements and house and spring of water thereon. It is to extend to the above mentioned lines, be the same more or less, the lower line near the marsh is to be so as to form right angles to a line running from east corner down through the middle of the lot, containing 10 acres, be the same more or less.

The said farm is mostly improved, and has a dwelling house, barn, wagon house, horse stable, and other outbuildings thereon; also 2 orchards.

TERMS OF SALE.—10 per cent. down on day of sale, 25 per cent. in 90 days from day of sale, and balance of two-thirds of the purchase money on April 1, 1885. Bond and mortgage upon the land is to be given by the purchaser to pay and secure to the widow the interest annually from day of sale on one-third of purchase money, and to pay the principal sum at death of widow.

ISAAC SUTTON,
Executor.
L. W. DEWITT,
Attorney.
36-38

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 39, January term, 1884. Libel in divorce a vinculo matrimonii. Florence A. Ryman, by her next friend, Andrew Hilbert, *v.* Marshal Ryman. To Marshal Ryman—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoena having failed on account of your absence. Returnable on Monday, September 15, 1884, at 2 o'clock P. M.

E. D. NICHOLS,
Solicitor.
36-37

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Israel Mendelson, and that said license will be asked for in the court aforesaid, on Monday, September 15th, 1884, at 10 o'clock A. M.

P. H. CAMPBELL,
Solicitor.
36-37

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Monday, the 15th day of September, A. D. 1884, at 10 o'clock A. M., under the Act of Assembly known as the Corporation Act of one thousand eight hundred and seventy-four, and the supplements thereto, for the charter of an intended corporation, to be called "The Drifton Game Protective Association," the character and object whereof is the preservation, protection, and propagation within the townships of Hazle, Foster, Denison, Butler, Sugarloaf, and Black Creek, in the county of Luzerne, of game and fish, and the enforcement of all laws against the unlawful taking, killing, or selling of the same, and to confer with the game protective societies of other places, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements.

ANDREW H. McCLINTOCK,
Solicitor.
34-37

NOTICE IS HEREBY GIVEN, THAT AN application will be made under the Act of the General Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation of certain Corporations," approved April 29, 1874, and the supplements thereto, for the charter of an intended corporation, to be called "The Nanticoke Gas Company," the character and objects of which are the manufacture and sale of gas for lighting purposes, to the inhabitants of the borough of Nanticoke and vicinity.

WM. R. GIBBONS,
Solicitor.
36-38

CHARTER.—NOTICE IS HEREBY GIVEN, that the undersigned will apply on the 10th October, 1884, for a charter for a Water Company, the purpose of which will be to supply inhabitants of Laurel Run borough, in Luzerne county, with water for domestic use.

CHAS. PARRISH. JOHN C. PHELPS.
CHAS. M. CONYNGHAM. PAUL A. OLIVER.
FRED. PARRISH. H. W. PALMER.
37-39

ESTATE OF WILLIAM S. SHOEMAKER, late of Kingston township, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

R. H. WEIR
DICKSON & ATHERTON, Wyoming, Pa.
Attorneys.
30-37

ESTATE OF JOHN KNORR, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE KNORR,
35-40 Wilkes-Barre, Pa.

ESTATE OF CHARLOTTE KEIPER, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

LEOPOLD KEIPER,
35-40 Wilkes-Barre, Pa.

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ESTATE OF WILLIAM ATHERHOLT, LATE of Kingston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. J. BRACE,
Luzerne, Pa.

ISAAC P. HAND,
Attorney.

33-38

ESTATE OF JOHN P. KIRCHER, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARGARET KIRCHER,
Hazleton, Pa.

35-40

ESTATE OF HENRIETTA LUDWIG, LATE of Hazleton, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

C. W. KLINE,
Hazleton, Pa.

36-41

ESTATE OF HENRY BROWN, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

R. J. FLICK,
Wilkes-Barre, Pa.

36-41

ESTATE OF JAMES B. HOPKINS, LATE OF Pittston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY HOPKINS,
Scranton, Pa.

36-41

ESTATE OF HENRY HONEYWELL, LATE of Dallas township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES H. COOKE,
Dallas, Pa.

36-41

ESTATE OF REUBEN D. ARNOLD, LATE of Shickshinny, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

M. H. ARNOLD,
Shickshinny, Pa.

M. E. WALKER,
Attorney.

35-40

ESTATE OF SARAH MASTERS, LATE OF Salem township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WESLEY RABERT,
Beach Haven, Pa.

C. B. JACKSON,
Attorney.

35-40

ESTATE OF MARTHA A. HUTCHISON, late of Plymouth, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

IRA D. PRINGLE,
Plymouth, Pa.

37-41

ESTATE OF J. B. DOW, LATE OF WILKES-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WILLIAM B DOW,
Wilkes-Barre, Pa.

37-42

W. S. PARSONS,
ALDERMAN,
WILKES-BARRE, PA.

CHAS. D. FOSTER,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

WILLIAM S. McLEAN,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, SEPTEMBER 19, 1884. NO. 38.

Court of Common Pleas of Schuylkill County.

IN RE ENGLISH BAPTIST CHURCH OF SHENANDOAH.

1. The requirements of the act of assembly relative to charters of churches must be strictly complied with.

2. A charter which does not provide that the property shall inure for the benefit of the lay members is fatally defective.

Application for charter.

The opinion of the court was delivered June 11, 1883, by

PERSHING, P. J.—" By the seventh section of the act of 26th of April, 1855 (Purd. Dig. 1264, pl. 9), it was enacted that any property, real or personal, for the use of any church, congregation, or religious society, for religious worship or sepulture, the same shall not be otherwise taken and held, or inure, than subject to the control and disposition of the lay members of such church, congregation, or religious society, or such constituted officers or representatives thereof as shall be composed of a majority of lay members, citizens of Pennsylvania, having a controlling power, * * * and no charter hereafter granted by any court for any church, congregation, or religious society shall be valid without requiring such property to be taken, held to inure, subject as aforesaid, except such religious society who shall be composed exclusively of others than laymen, may have trustees or corporators of the same description of persons."

It has been repeatedly decided that the terms of this act are imperative, and that the provision as to the control of the property of the corporation should be inserted in all charters in the very words of the statute. Without this the instrument is invalid.

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In St. Paul's Church, 6 Casey, 152, among other defects, the word "inure" was omitted from the charter. Lewis, C. J., said: "It (inure) was not inserted in the statute without an object, and it cannot be dispensed with in the charter." See, also, the Alexander Presbyterian Church, Id. 154; the Reformed Episcopal Church, 35 Leg. Int. 170; Powelton Avenue Church, 39 Leg. Int. 198; Church of the Holy Communion, 37 Leg. Int. 194. In the case last referred to, it was held that the corporation act of April 29th, 1874, did not repeal previous legislation on this subject, and that the omission in a charter of the provision as to the control of the property of the corporation might be supplied by an amendment without readvertising, if the statute in other respects had been complied with. The charter before us for approval contains no such provision on the subject of the church property as is required by the act of assembly. Our approval of it, therefore, is forbidden. Such action would not only be a nullity in itself, but might give rise to serious difficulties hereafter. Approval of the charter is refused, unless amended so as to conform to the terms of the act of 26th of April, 1855, referred to.

Charter refused.

Court of Common Pleas of Philadelphia County.

WISLER *v.* CARRIGAN.

Transcript of alderman's judgment—Time of filing in Common Pleas—Control of court over.

1. The transcript showed an alderman's judgment obtained January 13, 1872, an execution issued December 13, 1874, and a return of *nulla bona*. The transcript was entered March 8, 1882, whereupou the present rule was taken.

2. It has been held that the court will presume that a justice's judgment nineteen years old has been paid. Diamond *v.* Tobias, 2 Jones, 313. The court has no power to strike off a transcript of a justice's judgment.

Rule to strike off lien and transcript.

THE COURT.—In Darling *v.* Gifford, 12 S. & R. 72, it was held that the court had no power to strike off the transcript; and in

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Diamond *v.* Tobias, 2 Jones, 313, more than nineteen years elapsed between the judgment and the filing of the transcript, yet it was not intimated that the filing was too late.

Rule discharged.

James H. Shakespeare, for the rule.

William Roberts Kingman, a son of the late John and Mary Roberts Kingman, of Charleston, South Carolina, departed this life in this city on Saturday, August 23, 1884. He was born in Charleston, South Carolina, January 1, 1838, and belonged to an old and wealthy family. Great care was taken with his education. He was sent to college early, and graduated from Columbia university with high honors when but twenty-two years of age. So greatly were his talents esteemed that, immediately on leaving college, he was offered the principalship of the high school at Charleston, a preparatory school of good standing. This position he held until soon after the breaking out of the war of the rebellion. He was an ardent supporter of the southern cause, and enlisted as a private. He rose to the rank of captain of an artillery company, and for a time served on the staff of one of the Confederate generals. At the close of the war he returned to his position as principal of the Charleston high school, which he successfully conducted until 1870, when the school was broken up on account of a virulent outbreak of small-pox among the students. Shortly afterwards he visited Wilkes-Barre, and while here was impressed with the field which this city afforded for a first-class preparatory school. After a few months passed in adjusting his affairs in the south, he returned here in 1871, and opened his academy in the old Presbyterian school-house. For three or four years the school flourished and turned out excellent scholars, and Mr. Kingman finally turned his attention to the preparation of pupils for college. During all this time, and, in fact, ever since he left college, he had studied more or less for the bar, his chosen profession being that of a lawyer. After the close of his school, he continued his studies with redoubled ardor, reading in E. P. Darling's law office. Between

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the close of the school and his entering the profession of the law, he occupied the position of book-keeper at the First National bank. He was admitted to the bar of Luzerne county November 12, 1878, and remained in practice until his death. He was one of the seven year auditors recently appointed by the court to audit the accounts of the county.

Mr. Kingman was a man of rare mental endowments. He had the true instinct of a southern gentleman, and his politeness was proverbial; mild and unassuming in his manner, he was little known outside of his own social circle, yet wherever known he was a favorite. He never married.

The funeral was from the residence of T. S. Hillard, on Franklin street, the interment taking place at Hollenback cemetery. It is said his body will be removed by his friends and deposited at his old home in the sunny south.

The mother of Mr. Kingman was Mary Roberts, who was a sister of the first wife of the late O. B. Hillard, of this city. Thaddeus S. Hillard, of this city, was his cousin.

Aaron Jared Dietrick died at his residence, 85 South Franklin street, in this city, on Monday morning, September 8, 1884, about nine o'clock. He had been ill about a year, his trouble dating with a business trip to Kansas in August, 1883, where he was interested in a mineral spring property. His health rapidly failed, and a change of scene—first to Atlantic City and then to Lake Carey—was powerless to check the ravages of his disease, which was a complication of bladder and kidney disorders. Throughout his illness he has been a most patient sufferer, and even when his malady was most excrutiating not a murmur escaped his lips, he calming the anxiety of his family by saying it might be worse.

Judge Dietrick came from German stock, his parents emigrating from Germany, and settling in Northampton county, removing afterwards to Columbia county. He was born April 6, 1822, in Briar Creek township, Columbia county, Pennsylvania, and his early days were spent on the farm of his father, John Dietrick. Until quite a lad he could speak only the language of his parents,

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and the family still possess the bible of his boyhood days, printed in German. He became later a fine German scholar, and earned many a valuable retainer by this fact, and when he became a judge he more than once conducted a case entirely in German.

He was apprenticed as a blacksmith when a lad, but did not complete this course of training, his talents inciting him towards one of the professions. After attending the district schools of his neighborhood, he became a pupil in Berwick academy, and afterwards in Wyoming seminary, at Kingston, Pennsylvania. After leaving these he entered as a law student with M. E. Jackson, Esq., of Berwick, supporting himself meanwhile by teaching school in the township where he was born. He was admitted to the bar, at Danville, August 14, 1847, after which he practiced law eight years in Laporte, Sullivan county, Pa. While there he held the office of deputy district attorney three terms, and served two terms as county treasurer. While residing in Sullivan county he received the nomination for state senator, but was defeated in the election. Lycoming county, as now, was then embraced in the district. In 1856 he removed to Williamsport, where he settled and engaged in the practice of the law. In January, 1864, he removed to Washington city, and became interested in the settlement of claims before the different departments of the government. He resided in Washington about four years, when he returned to Williamsport, April 1, 1868, and resumed the practice of his profession. He also served as revenue commissioner for that judicial district. After the adoption of the Wallace law by the city of Williamsport, he was appointed city recorder by Governor Geary on March 27, 1868, which office he held until 1871, when Mr. Meredith was elected and commissioned to serve for ten years. Before the expiration of his term, the new constitution was adopted, which retired him in December, 1875. At the ensuing election, June 4, 1876, Judge Dietrick was elected and commissioned to serve five years. It was here that he derived his title of judge, the office of city recorder being a tribunal of limited criminal jurisdiction. At one time he was business manager of the Williamsport *Gazette and Bulletin*, and it was through his efforts mainly that the old *Gazette* and the *West Branch Bulletin* were consolidated November 22, 1869.

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In 1880 he resigned his office of city recorder, and removed to Wilkes-Barre, and was admitted to the bar of Luzerne county December 11, 1880, and has since practiced law here, though his time has principally been occupied in the management of the estate of the late S. G. Turner, of whom his niece is the surviving widow.

Judge Dietrick was twice married, his first wife being Catherine E. Burke, whom he met while teaching at Briar Creek. Three children survive from this union—Willard M., who is the treasurer of the Williamsport school board; Ezra P. and Franklin Pierce, the latter two being the Philadelphia shoe manufacturing firm of E. P. Dietrick & Co. He was a second time married in 1853 to Mary S. Kellogg, of East Smithfield, Bradford county, who survives him, as do their two children, Edward H. and Carrie M.

Judge Dietrick was a consistent member of the Congregational church, and upon his coming here united by letter with the First Presbyterian church. He was a member of Ivy lodge of Masons, Williamsport, a knight templar of Baldwin commandery, Williamsport, and a member of the Odd Fellows. He was a man universally respected and revered, and as far as known had not an enemy. His gentleness of manner and evenness of disposition were his striking qualities, and he was never known to lose his temper even under the most trying circumstances. In his home, he was a devoted husband and loving father; in the community, he was a faithful citizen; in the church, he was an unassuming but sincere member; in the legal profession, he occupied an eminent position.

The funeral services were held from his late residence on Tuesday morning at nine o'clock. The body was taken to the home of his son in Williamsport, the interment taking place on Wednesday in the family plot in that place.

ACTION OF THE BAR.

The members of the Luzerne county bar met in the bar office, in the court house, at three o'clock P. M. A. T. McClintock was chosen chairman, and G. L. Halsey secretary.

In taking his seat, the chairman said they were all aware of the sad event that had brought them together. The deceased

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had long been a member of the bar in other counties, but had only been associated with Luzerne for a few years; yet he felt secure in saying that these few years had been sufficient to secure for him the respect and esteem of every member of the Luzerne bar. He thought it only proper that they should meet and give fitting expression to their esteem for the deceased and sympathy for his family.

The chairman was authorized by motion to appoint a committee of five to draw up fitting resolutions, and named Judge Rice, C. D. Foster, T. R. Martin, N. Taylor, and Judge Rhone.

Judge Rhone moved that a committee of seven be appointed to accompany the remains to the railway station. This was adopted, and the following committee was named: Judge Rhone, Judge Woodward, Judge Rice, T. R. Martin, F. M. Nichols, E. P. Darling, and George K. Powell.

Judge Woodward moved that, when the meeting adjourned, it should do so to meet at ten o'clock Tuesday morning, to hear the report of the committee on resolutions. This was amended by making the time 8.30, in order to give those who desired it an opportunity to be present at the funeral services, and as amended the motion was adopted.

Judge Rhone paid a high tribute to the deceased. The intelligence had been so sudden that he scarcely knew what to say. He had had an acquaintance of some years with Judge Dietrick, and had become greatly attached to him. He had never known, amid the circle of his acquaintances, a better balanced mind and character than those of Judge Dietrick. In education, instincts, social qualities, and domestic views and habits, he was a thorough gentleman. The speaker alluded briefly to the early life of the deceased, his struggles at the bar of Sullivan county and in Williamsport, and his signal success. His line of law, he said, seemed to be rather that of counsellor than an advocate. He was widely known throughout central Pennsylvania, and none held a higher place in the opinion of his acquaintances, as an able lawyer and a first rate citizen. There were none but spoke in the highest terms of his ability and integrity, and the speaker was sure that no death that could have occurred at this bar would cause deeper pain.

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George K. Powell desired to say a word about one whom he had learned to know and regard very highly. He had met Judge Dietrick for the first time about four years ago. The impression made upon him then was that the judge was a true gentleman, and this impression had been strengthened by the acquaintance that had grown up since then. Mr. Powell spoke of the family relations of the deceased, the warm affection and high esteem in which he was held by every member of his family. The qualities that so deeply endeared him to the members of his family circle also obtained for him the affection of all who came into close contact with him.

C. D. Foster had known Judge Dietrick for three or four years, and it was to him a pleasure to bear witness to the high mental and social qualities of the deceased. He was glad to bear testimony that, in his death, the members of the bar had lost a warm friend, and the community a valued citizen.

N. Taylor said that his relations with the deceased were probably more intimate than those of any other member of the bar, they having occupied the same office. Judge Dietrick was one of those men you like the more, the more you know them. He was an able lawyer and a good man. He was generous to fault, unassuming, and of the highest integrity. As a husband and father he was a model, and it was to such men as he that the younger members of the bar should look as guides in the path of life.

T. R. Martin and Isaac P. Hand also spoke in high terms of the ability and qualities of the deceased, and the meeting adjourned until 8.30 Tuesday morning.

The funeral services of the late A. J. Dietrick took place Tuesday morning from his late residence, 85 South Franklin street, and were largely attended, not only by the personal friends of the family, but by the members of the Luzerne bar. The solemn service was according to the ritual of the Presbyterian church, and conducted by Rev. Dr. Hodge and by Rev. James S. Ramsay, of Harlem, New York. The pall-bearers were A. T. McClintock, N. Rutter, E. P. Darling, A. Farnham, I. P. Hand, and A. R. Brundage.

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The casket was then taken by train to Williamsport, accompanied by the family and friends.

At the meeting of the bar the following resolutions were offered by the committee, and were unanimously adopted:

The bereavement which the community and the legal profession have sustained in the death of ex-Judge Aaron J. Dietrick calls for a public expression of our sense of loss, as citizens and as members of the bar, and a manifestation of our deep-felt sympathy for those who mourn for a beloved husband and an affectionate and solicitous father. Ex-Judge Dietrick removed to our city and united himself with the bar of this county but a few years since, and yet he was not a stranger to us, nor the people of Wilkes-Barre.

Born in the adjacent county of Columbia, practicing his profession at one time in Sullivan county, and subsequently judge in the city of Williamsport, he was not unfrequently called to this city on professional business, at which times he became personally known to some of those who later were glad to know him as a fellow citizen and a brother member of our bar.

Ex-Judge Dietrick's life has come to a close; his career has ended; his work has been fully performed. It has been a life full of joy and peace, a career worthy in its high pursuits, and honorable and ennobling in all its varied relationships; a work that found its inspiration in a religious sense, and its reward in the consciousness of well doing. As a member of society sharing its burdens, participating in its salutary movements, and rejoicing in its moral triumphs; as a member of the legal profession, learned in its lore, capable as an advocate and jurist, and ever faithful to those who sought his advice or required his services, he was regarded by us as truly eminent, a fit associate of the mature in years, and an exemplar to the students and young members of the profession. His was the gentleness, the truthfulness, the unselfishness which lights the Christian soul and illumines the path of public and private life. In reviewing the steps by which ex-Judge Dietrick reached an honored position, there is an incentive to our youth; in the calm of his mature professional life, we are taught the reliability, the fortitude, and

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the unfailing promise vouchsafed the mind and soul, actuated by a sense of duty, and attuned to harmony with the spirit of true religion.

Resolved, That in the death of ex-Judge Dietrick, the members of the legal profession of this county have lost a warm, faithful, personal friend, and the bar has been deprived of one who added to its character by illustrious attainments and Christian virtues.

That we hereby extend to the family of the deceased that sympathy which, if it cannot recall the loved husband and the devoted parent, may solace somewhat their grief in the reflection that those who knew him best knew that he did not live in vain.

That the members of the bench and the bar attend the funeral services in a body.

That the preamble and resolutions be engrossed and presented to the widow, and that a copy be furnished the several papers of this city for publication, and that the court be requested to direct the same to be spread upon the record.

RESOLUTIONS PASSED BY THE MEMBERS OF THE BAR OF LYCOMING COUNTY.

The members of the bar of Lycoming county, having heard with sincere regret of the death of Aaron J. Dietrick, and desiring to place upon record their appreciation of the qualities of mind and heart that distinguished their late associate, do

Resolve, First, That in the death of Aaron J. Dietrick, this community has lost a public spirited and prominent citizen, the church an earnest and zealous member, and the bar of Lycoming county an advocate whose life and services were characterized by a strict devotion to his profession, and a zeal and earnestness in its practice worthy of the very highest praise.

Second, That in the administration of justice, as recorder of the city of Williamsport, Mr. Dietrick deserved and received the unqualified praise of this bar and of this community for the gentleness, the patience, the courtesy, and the thorough knowledge of the law that he displayed, and his resignation of that office was received with sincere regret by the members of the bar, and all others having business before him.

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Third, That the bar attend the funeral in a body. That these resolutions be entered upon the minutes of the court; that a copy thereof be furnished the family of our deceased associate, and that they be published in the newspapers of this city.

H. C. PARSONS,
H. C. MCCORMICK,
ADDISON CANDOR,
Committee.

Hon. R. P. Allen, in seconding the motion, said that the resolutions were appropriate, and properly expressed his individual feeling in regard to the deceased. About the time he commenced the study of the law, Mr. Dietrick came to this city, and he became acquainted with him. His uniform courtesy of manner and kindness of heart attracted me to him, and during his professional career he and I were warm personal friends. The crowning quality of Judge Dietrick's character was his forbearance, his patience, and his charity. He was devoted to his family, and I know of no one more kindly in his demeanor than he.

John J. Metzger, Esq., followed Mr. Allen in an eloquent and feeling address. In the course of his remarks, he said: Mr. Dietrick was the first member of the bar with whom I had a personal acquaintance, having known him since I was a boy, and the first time I met him I was impressed and convinced of his high character. I read law in his office for over a year, and during that time I knew of nothing in his demeanor that would mar the peace and comfort of any one. He was uniformly kind and faithful. He was generous to a fault, and rather than do anything which could reflect upon his character he would hesitate to do anything at all. He was a gentleman, too, of very strong convictions, and when once convinced his purpose became fixed, and, without regard to what his friends might say, he was unfaltering, and could not be driven from his course under any circumstances. I am proud to be able to say to-day that I was initiated in the practice of the law by a man having such a character. He was a man of pure heart, honest and fair in all his dealings. He always maintained an evenness of temperament, and it was a pleasure to be associated with him.

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At the close of Mr. Metzger's address, Judge Cummin read the following letter from H. W. Watson, Esq.:

"Williamsport, Pa., September 9, 1884.

"To Hon. H. H. Cummin, chairman:

"Not being able to be present at the meeting of the bar fixed for to-morrow to take action in regard to the death of A. J. Dietrick, Esq., I think it but proper for me to give expression to the sympathy which I feel for the family of the deceased, and to put on record my estimate of his character.

"I first became acquainted with him in the year A. D. 1859, meeting him in the office of General Robert Fleming, on whom I had called with a view of getting his opinion as to locating in Williamsport to commence the practice of the law. I well remember his kind manner toward me, and the interest that both himself and the general manifested in my behalf. Since then, while Mr. Dietrick was a resident of Williamsport, I have seen him very frequently. He was a man of a very kind and genial disposition, and at the same time a firm defender of the right; fearless of the opposition and clamor of any portion of the public, he never hesitated to do what he conceived to be his duty. An unfaltering advocate of temperance and virtue, he frequently provoked opposition from violators of the law and their sympathizers. Unexceptionally temperate in his own habits, he endeavored to exert his influence at all times to improve the moral condition of the community in which he resided.

"He was a true friend, a good neighbor, a patient and faithful advocate; a kind husband and father, and a persistent Christian. His death has not been unexpected for some time; and now his name is added to the list of the late members of the Lycoming county bar, who, like himself, have passed into the other world. These were Francis Campbell, James Armstrong, Waldo Willard, George White, David Montgomery, Seth T. McCormick, Judge Bentley, Judge Gamble, and others who sleep the 'last sleep,' all of whom were members of the bar with A. J. Dietrick.

"To die is as natural as it is to be born, and the more frequently we accustom ourselves to think of the uncertainty of life and the certainty of death, the better it would doubtless be for

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ourselves, our friends, and the community in which we live. It is, however, with sincere regret that I am compelled, on account of a prior business engagement, to be absent at the meeting of the bar to-morrow, and to be prevented from attending the funeral. I therefore take this method of showing my respect for the memory of the deceased.

" Respectfully yours,

" HENRY W WATSON."

J. L. Meredith, Esq., followed in a glowing tribute to the memory of the deceased. He said he combined in a large measure a quality of amiability with a quality of firmness. He was certainly a man of good judgment, and when he had once passed upon a legal question his opinion was valuable. All that has been said in regard to him has been well said, and I heartily concur in all the sentiments expressed.

High tributes of respect were also paid to the memory of the deceased by Messrs. Reighard, Beeber, and H. C. McCormick, but owing to limited space it is impossible to reproduce their remarks.

Judge Cummin closed the addresses, speaking as follows: I cannot refrain from adding my testimony to the character of Mr. Dietrick. I was, when at the bar, associated with him, and have met him on the other side. As a colleague I never knew a man to do so much work, to make such thorough investigations to aid the cause that he was interested in as Mr. Dietrick, and when you found him on the other side, knowing that he would do this, you could always count that you had a man who would look up everything. He was, therefore, a dangerous adversary. I can only reiterate what has already been expressed. The young members of the bar will be able to appreciate the value of such a character as Mr. Dietrick possessed.

The resolutions were then adopted, Judge Cummin instructing the committee to present them in open court.

The members present then proceeded in a body to the house, and took a last look at the remains.

Promptly at ten o'clock the services were opened by Rev. Dr. Hodge, who read from the burial service. Vocal music followed,

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rendered by Prof. S. C. Moore, Mr. R. H. Young, Mrs. Starkweather, and Miss Hitchcock.

Brief remarks were then made by Dr. Hodge, who referred to the high estimation in which Judge Dietrick was held by all classes at Wilkes-Barre, where, in the few years of his residence, he had impressed all who knew him by the same gentleness, the same tranquility of temperament, the same Christlikeness that had characterized him here. In speaking of the scene here to-day, he said a similar scene had been witnessed at Wilkes-Barre, the best people of that city having accompanied the remains to the station.

The doctor then introduced Rev. James S. Ramsey, of New York, who delivered a touching, eloquent, and practical address. He applied a very expressive figure of a house which we see when the inmates are asleep—there is life there although it may not be apparent. It is seen again when the occupants are no longer there—when a striking change is apparent. The soul of a man, *the man*, goes out of the clay tenement, and what we pay tribute to on such occasions as this is not the man, but his memory. The unseen part is the eternal part. Upon this point the speaker dwelt for some time, referring as illustrations to electricity, steam and other forces that keep the world of this life in motion. He proceeded to speak of the character of Judge Dietrick. It had been his privilege to visit the home of deceased. He had also known him in his public and in his church relations. In all he was remarkable for his gentleness, his sympathy, his faith, and his strength. The speaker had been greatly helped by associating with him. The fortitude with which he bore his weary months of suffering was spoken of, and the resignation and humble trust with which he committed himself to the Master elicited special remark. He had gone to a better home than any earthly friend could give him. In closing, the speaker urged all present, including those who might be counting upon their own self-righteousness to save them, to imitate the humble dependence of deceased upon the merits of Christ as the way of salvation. He enjoined them to so live that, when they should leave this world, from their caskets should go out an influence that would be a joyous heritage to their friends. His words of consolation

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to the afflicted were deeply touching and comforting. He urged all his hearers to let not their hearts be troubled—to "believe in God."

Prayer was offered by Dr. Hodge, and the quartette rendered "Nearer my God to Thee," after which the benediction was pronounced by Rev. Mr. Ramsey.

The remains, which reposed in a handsome casket, were then viewed for the last time by the friends, when a delegation of Sir Knights, members of Ivy lodge, No. 397, and lodge No. 106, F. and A. M., filed past and took a last look at the face of their deceased brother, when the lid was closed. The features of deceased, notwithstanding his long illness, were very natural, and he appeared to be quietly sleeping. The floral offerings were beautiful and appropriate. A bunch of wheat brought from Wilkes-Barre rested on the foot of the casket.

All the ceremonies being over, the casket was borne to the hearse by the following representatives of Baldwin II. Commandery, No. 22, and the lower lodges: D. B. Else, F. H. Keller, M. D. Hotchkiss, Alexander Beede, H. Hinckly, and Milton Huber. The procession of carriages—a very long one—then slowly moved to Williamsport cemetery, Washington street, where the last rites were performed, and there the honored dead now rests in peace.

In Wright *v.* Crump, Holt, C. J., states the case of the mayor of Hereford, who claimed title to a house in Hereford, where a court was held, *and he by charter was sole judge of the court.* In order to recover the house, he made a lease of it to A., that A. might bring ejectment before him. A. did so, and the mayor, says Lord Holt, "in effect, was judge in his own cause, and he gave judgment for his own lessee;" and upon complaint in this matter, in the King's Bench, the court granted an attachment, and the mayor was laid by the heels; though it is said by one of the reporters, "he got off the easier for that he had been an old cavalier."

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Court of Common Pleas of Luzerne County.

SCHOOLEY & CASTERLINE *v.* TURNER.

Arbitration—Costs—Attorney Fee.

An attorney fee is not taxable as part of the *accrued* costs which must be paid on an appeal from an award of arbitrators.

Rule to show cause why appeal from award of arbitrators shall not be stricken off.

The opinion of the court was delivered March 24, 1880, by

RICE, P. J.—This case came into court by appeal on the part of the defendant from a justice of the peace. The case was arbitrated, and an award filed against the defendant for ten dollars. The defendant appealed from the award, and this record shows that he has paid all costs except those made before the magistrate and the three dollars attorney fee. There being no proof to the contrary, the presumption is that he paid the transcript costs on taking his appeal from the justice's judgment, otherwise the justice would not have allowed the appeal. Act March 2, 1868, P. L. 257.

The single question then is as to the effect of the non-payment of the attorney fee. The opinion of Judge Pearson in McCulla *v.* Opple, Pearson's Decisions, 150, s. c., 3 Luz. Leg. Obs. 87, seems to show clearly that the fee is not taxable on an award until the time for appeal has elapsed and it has become a final judgment. This being the case, it is not part of the *accrued* costs which must be paid on appeal. The case cited seems to have been well considered; and while we do not feel disposed to overturn the ordinary practice in respect to the taxation of the fee, we are bound to recognize the ruling of Judge Pearson as founded on a reasonable interpretation of the statute.

The rule is discharged.

L. W. Dewitt, Esq., for plaintiff.

D. S. Bennett, Esq., for defendant.

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RPHANS' COURT SALE.

Estate of Elizabeth D. Dennis, late of the city ilkes-Barre, Luzerne county, and state of Pennnia, deceased. By virtue of an order of the Or-' Court of Luzerne county there will be exposed blic sale, at the Arbitration Room in the Court e, at Wilkes-Barre, Pa., on Saturday, September 1, at 10 o'clock A. M., all that lot of land in the Wilkes-Barre beginning at a corner of land late ing to Samuel S. Cook, now deceased, on Northn street thence along Northampton street 40 a corner, thence 160 feet to a corner on a 12-foot thence along said alley 40 feet to a corner, and 160 feet to the beginning, containing 6,400 feet of land, more or less, with a 1½-story dwelling house, frame barn and outbuildings n.

MS OF SALE.—$250 down, 25 per cent. of baln confirmation of sale and delivery of deed, and lance, with interest from confirmation, in 6 s from confirmation. Deferred payment to be d on the premises.

THOMAS A. DENNIS,
E. SHOEMAKER, Administrator.
Attorney. 36-38

PHANS' COURT SALE.

Estate of Thomas C. Harkness, deceased. By of an order of the Orphans' Court of Luzerne there will be exposed to public sale, at the tion Room, in the Court House, Wilkes-Barre, Saturday, the 18th day of October, A. D. 1884, clock A. M., the following valuable real estate,

l that lot of land on the westerly side of Frankrt, in the city of Wilkes-Barre, beginning at a on said Franklin street by lands of the estate of ck McAlpine, deceased, thence by the same t to a corner of lot of William McDermott, by the same and lot of George Farris 42 feet to r by lands now or late of E. H. Chase, thence ame 225 feet to a corner on said Franklin street, along said street 42 feet to the place of beginontaining 9450 square feet of land more or less; d, with a large 2-story brick dwelling house nsard roof, and all modern improvements.

e surface of all that lot of land in the city of Barre, beginning at a corner of Andover street h street in said city, thence along said Andover bout 880 feet to Grove street, thence along said street about 300 feet to Spring street, thence id Spring street 608 6-10 feet to Arch street, along said Arch street about 403 feet to the beginning, being lots Nos. 20 to 35, both in- and lots Nos. 52 to 64, both included, in the ots known as the Lockhart lots.

e surface of all that lot of land in the city of Barre, beginning at a corner of Main street and r street in said city, thence along said Andover bout 208 feet to a corner on a 24 foot alley, along said alley about 155 feet to a corner on 90 in the plot hereinafter referred to, thence id lot No. 90 about 200 feet to a corner on said reet, thence along said Main street about 100 he place of beginning, being lots Nos. 88 and e plan of lots known as the Lockhart lots. Lot s improved with a frame dwelling house.

MS OF SALE.—On piece No. 1, one-fourth down of sale, one-fourth on confirmation of sale and r of deed, and the balance, with interest, from ation as follows: one-half of balance in six , and remainder in one year from confirmation. ieces Nos. 2 and 3, $25 on each lot down, $25 irmation of sale and delivery of deed, and balith interest, from confirmation as follows: onealance in one year, and remainder in two years nfirmation. Pieces Nos. 2 and 3 will be sold n single lots or in blocks. Deferred payments ses to be secured by bond and mortgage on the s.

ISAAC LIVINGSTON,
OSBORNE, Administrator.
. EVANS,
Attorneys. 38-40

EXECUTOR'S SALE.

Estate of Edgar Green, deceased. By virtue of a power given to the executor in the will of Edgar Green, deceased, and by virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale on the premises in the township of Franklin, on Monday, the 29th day of September, at 10 o'clock A. M., the following two pieces of land, constituting one farm, containing about 100 acres.

1. A piece of land in the township of Franklin, being part of lot No. 11 in the first tier of lots in Northmoreland, beginning at the north corner, thence 328 rods to a stake, thence 41 rods to a stake, thence 148 rods to a white oak, thence 4 rods to a stake, thence 89 rods to a stake, thence 4 rods to a stake, thence 91 rods to a stake, thence 42 rods to the place of beginning, containing 87 acres, be the same more or less.

2. A tract of land in Franklin township, bounded north by lands of Theodore Smith and lands of estate of Edgar Green, southeast by land formerly owned by Levi Winters, the southwest line is to run so as to take in the head of the spring and no farther down toward the marsh, it being the north corner of lot that Elijah Harris bought of Samuel D. Bodle, with the improvements and house and spring of water thereon. It is to extend to the above mentioned lines, be the same more or less, the lower line near the marsh is to be so as to form right angles to a line running from east corner down through the middle of the lot, containing 10 acres, be the same more or less.

The said farm is mostly improved, and has a dwelling house, barn, wagon house, horse stable, and other outbuildings thereon; also 2 orchards.

TERMS OF SALE.—10 per cent. down on day of sale, 25 per cent. in 90 days from day of sale, and balance of two-thirds of the purchase money on April 1, 1885. Bond and mortgage upon the land is to be given by the purchaser to pay and secure to the widow the interest annually from day of sale on one-third of purchase money, and to pay the principal sum at death of widow.

ISAAC SUTTON,
L. W. DEWITT, Executor.
Attorney. 36-38

NOTICE IS HEREBY GIVEN, THAT AN application will be made under the Act of the General Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation of certain Corporations," approved April 29, 1874, and the supplements thereto, for the charter of an intended corporation, to be called "The Nanticoke Gas Company," the character and objects of which are the manufacture and sale of gas for lighting purposes, to the inhabitants of the borough of Nanticoke and vicinity.

WM. R. GIBBONS,
36-38 Solicitor.

CHARTER.—NOTICE IS HEREBY GIVEN, that the undersigned will apply on the 10th October, 1884, for a charter for a Water Company, the purpose of which will be to supply inhabitants of Laurel Run borough, in Luzerne county, with water for domestic use.

CHAS. PARRISH. JOHN C. PHELPS.
CHAS. M. CONYNGHAM. PAUL A. OLIVER.
FRED. PARRISH. H. W. PALMER.

37-39

NOTICE OF AUDIT.

Fritz et al. v. Eustice et al. I will distribute the proceeds of the real estate sale of the estate of Maria Fritz, deceased, at my office, on Wednesday, the 15th of October, 1884, at 10 o'clock A. M., at which time and place those interested must present their claims or be debarred from coming in on said fund.

S. J. STRAUSS,
38-41 Master in Chancery.

WILLIAM S. McLEAN,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

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WIDOWS' APPRAISEMENTS.

Notice is hereby given to all persons concerned, that widows' appraisements in the following estates have been approved nisi by the Orphans' Court of Luzerne county, and, unless exceptions are filed, will be presented for final approval on Monday, the 6th day of October, 1884:

J. W. Rinker, Philemon Santee, John Holmes, Michael Angelo, and Joseph B. Kelley, deceased.

JOSEPH HENDLER,
38-40 Clerk O. C.

ESTATES TO BE AUDITED BY THE Orphans' Court of Luzerne county.

Notice is hereby given that accounts have been filed and confirmed absolutely by the court in the following estates:

1. David Benscoter; W. J. and F. M. Benscoter, administrators, and W. J. Benscoter, trustee; 7th October, 1884.
2. John B. Wood; John G. Wood and John Espy, executors; 7th October, 1884.
3. Giles Slocum; Geo. S. Bennett, James S. Slocum, and Abram Nesbitt, executors; 8th October, 1884.
4. Mary Ann Davis; Abram Nesbitt, administrator; 8th October, 1884.
5. William Sharpe; Richard Sharpe and Geo. Ruddle, administrators; 9th October, 1884.
6. Antonette Beck; Charles H. Cooke, administrator; 9th October, 1884.
7. Calvin Halleck; Jesse Halleck, administrator; 9th October, 1884.
8. Reuben Kisner; C. W. Kisner and Cordilla Kisner, administrators; 10th October, 1884.
9. Gottlob Ulmer; Maria Ulmer and W. F. Martz, executors; 10th October, 1884.
10. Rachel P. Williams; Thomas D. Davies, administrator; 11th October, 1884.
11. Mary Ann Duffy; F. Tracy and William Keating, administrators; 11th October, 1884.
12. John Merrit; Margaret Merrit, administratrix; 13th October, 1884.
13. Sarah B. Kirkendall; William H. Kirkendall, executor; 13th October, 1884.
14. Hiram Kirkendall; Benjamin Evans and W. H. Kirkendall, executors; 13th October, 1884.
15. Martha Fairchild; Samuel Line, administrator; 14th October, 1884.
16. L. W. Drake; Ario Pardee, Calvin Pardee, and Elvira E. Drake, executors; 14th October, 1884.
17. William Witcraft; E. P. Morris, administrator; 14th October, 1884.
18. Levi Turnbach; Susan Turnbach, administratrix; 15th October, 1884.
19. Josiah R. Gregory; Fannie M. Gregory, administratrix; 15th October, 1884.
20. Mary Culver; Elisha Culver, administrator; 15th October, 1884.

The accounts enumerated and designated in the above list will be audited by the court, in the Court House, in the Orphans' Court room, during the session of court on the days set forth opposite the name of each estate, at which time all persons interested shall attend, if they see fit, and present their claims against said estate, or forever thereafter be debarred from coming upon said fund.

JOSEPH HENDLER,
38-40 Clerk O. C.

SHERIFF'S SALES.

Abstract of property to be sold by J. S. Oberrender, Sheriff of Luzerne county, on Saturday, October 11, A. D. 1884, at 10 o'clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are numbered, to wit:

1

Suit of Edna Etta Lawrence, use of Pearce, exr., v. Charlotte Ross. Bedford, Att'y.

Those two tracts of land in the township of Lehman, bounded on the southeast by lands of A. A. Ketcham, on the northeast by lands of Charles P. Barton, on the northwest by lands of Margaret Beard, and on the southwest by the Lake road, containing about 31 acres of land, be the same more or less. The other piece begins at a corner on the road adjoining lands of Sarah E. King, thence along Sarah E. King's line 15 perches to a corner adjoining lands of S. P. Ide, thence 24 rods to a hickory corner, thence about 4 perches to the road leading from Harvey's Lake to Huntsville, thence along said road in a southeasterly direction about 24 perches to place of beginning; containing 1 acre and 120 perches of land.

2

Suit of Samuel Bach v. Philip McKinsey, John Stadt, and Herman Kampa. Gates, Att'y.

A lot of land on the corner of Broadway and Arch street, in the borough of Nanticoke, beginning at said corner of Broadway and Arch street, thence along Arch street 50 feet, thence 50 feet, thence along line of lot No. 35 50 feet to Broadway, thence along said Broadway 50 feet to the place of beginning; containing 2500 square feet of land, more or less; upon which is located a 2-story frame building 38 by 46 feet.

3

Suit of Charles H. Knelly, assignee, v. Solomon Heller. Kisner, Att'y

All that lot of land in Sugarloaf township, commencing at a stone corner of land late of George Nixon, thence by same 69 2-10 perches to post, thence by land of Jacob Fetter 87 perches to stone, thence by land of Central Coal Company 13 7-10 perches to stone corner, thence 48 perches to white pine tree, thence 11 4-10 perches to chestnut tree, thence 15 7-10 perches, thence 51 6-10 perches to post, thence 74 perches to the place of beginning; containing 41 acres and 8 perches; having erected thereon a frame dwelling house, barn, and other outhouses, with orchard.

4

Suit of the Plymouth Building Association, assigned to Mary Weir, v. William W. Jones. Shonk, Att'y.

All that lot of land, in Plymouth borough, Luzerne county, Pa, beginning at a corner on the west side of a street, thence in a westerly direction along land late of Thomas Chalan 150 feet to the Bull Run railroad, thence along said railroad in a northerly direction 50 feet to a corner, thence in an easterly direction in a line parallel with said Chalan line 150 feet to said street, thence along said street in a southerly direction 50 feet to the place of beginning; containing 7500 square feet of land, more or less; all improved, with one two-story wood dwelling house with basement underneath, barn, outbuildings, and fruit trees thereon.

5

Suit of William Johnson et al., now assigned to A. F. Peters and M. G. Peters, v. Joseph Speck and A. E. Speck, his wife.

A lot of land in the borough of Freeland, beginning at a point on the south side of Walnut street 249 feet from the corner of Pine street and Walnut street, and extending along Walnut street 41 feet 6 inches to lands of Birbeck estate, and of that width in length or depth southerly 150 feet 3 inches to a public alley, saving in front of said lot 6 feet for public sidewalk and along the rear 6 feet for a public alley, which are reserved and dedicated for same purpose, being lot No. 7 in plan surveyed by S. Benner, and improved with one 2-story frame dwelling and outbuilding. 38-40

ESTATE OF WILLIAM ATHERHOLT, LATE of Kingston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. J. BRACE,
ISAAC P. HAND, Luzerne, Pa
Attorney. 33-38

ESTATE OF JOHN KNORR, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE KNORR,
35-40 Wilkes-Barre, Pa.

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NOTICE.
Estate of Elizabeth Whitmore, deceased. All persons interested in the above estate are hereby notified that the Orphans' Court of Luzerne county, on petition of F. Yates, a legatee, have granted a rule to show cause why the real estate late of said decedent should not be sold for payment of legacies returnable first day of October term, 1884 (October 6, 1884), and that on that day, at 10 o'clock A. M., a decree authorizing such sale will be applied for.

GEORGE S. FERRIS.
38-40 Attorney for Petitioner.

ESTATE OF CHARLOTTE KEIPER, LATE of Wilkes-Barre, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

LEOPOLD KEIPER,
35-40 Wilkes-Barre, Pa.

ESTATE OF JOHN P. KIRCHER, LATE OF Hazleton, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARGARET KIRCHER,
35-40 Hazleton, Pa.

ESTATE OF MARTHA A. HUTCHISON, late of Plymouth, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

IRA D. PRINGLE,
37-42 Plymouth, Pa.

ESTATE OF HENRIETTA LUDWIG, LATE of Hazleton, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

C. W. KLINE,
36-41 Hazleton, Pa.

ESTATE OF HENRY BROWN, LATE OF Wilkes-Barre, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

R. J. FLICK,
36-41 Wilkes-Barre, Pa.

ESTATE OF REUBEN D. ARNOLD, LATE of Shickshinny, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

M. H. ARNOLD,
M. E. WALKER, Shickshinny, Pa.
Attorney. 35-40

ESTATE OF SARAH MASTERS, LATE OF Salem township, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WESLEY RABERT,
C. B. JACKSON, Beach Haven, Pa.
Attorney. 35-40

ESTATE OF JAMES B. HOPKINS, LATE OF Pittston township, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY HOPKINS,
36-41 Scranton, Pa.

ESTATE OF HENRY HONEYWELL, LATE of Dallas township, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES H. COOKE,
36-41 Dallas, Pa.

ESTATE OF J. B. DOW, LATE OF WILKES-Barre, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WILLIAM B DOW,
37-42 Wilkes-Barre, Pa.

ESTATE OF ELIZABETH B. DAMON, LATE of Pittston, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE S. FERRIS,
38-43 Pittston, Pa.

W. S. PARSONS,
ALDERMAN,
WILKES-BARRE, PA.

CHAS. D. FOSTER,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, SEPTEMBER 26, 1884. NO. 39.

Supreme Court of Pennsylvania.

WILLIAMS' *et al.* APPEALS.

Accident insurance—Assignment of policy—What words necessary to constitute—Evidence of gift by husband to wife—What evidence necessary to establish as against husband's creditors—Estoppel.

A., in contemplation of leaving home, purchased an accident insurance ticket, which, by its terms, was non-transferable under pain of forfeiture. Before leaving home, he laid the ticket on a table in front of his wife, and said to her that "she should take it, and take care of it, and if he got killed before he got back, she would be $3000 (the amount of the policy) better off." *Held*, that these facts were insufficient to establish a gift of the ticket to A.'s wife as against his creditors; that in order to establish such a gift, it was necessary to prove that A. intended to part with both the possession and property of the ticket.

For opinion of the court below, see 12 Luz. Leg. Reg. 394, 2 Kulp, 508.

Certiorari to and appeals from the Orphans' Court of Wyoming county.

The opinion of the court was delivered May 19, 1884, by

MERCUR, C. J.—These two appeals are from the same decree. They were argued together. The appellants are creditors of the estate of H. P. Hallstead, deceased. The contention is as to the ownership of a policy or ticket of insurance, procured by him in the Travelers' Insurance Company of Hartford, on his own person. It provided for the payment to him of fifteen dollars per week in case of accidental bodily injuries, or, in case of death through such injuries, the sum of three thousand dollars. It was for two days only. During that time he sustained accidental bodily injuries, which caused his death. The sum of three thousand dollars was paid to his administrators by the insurance

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company, but the money is claimed by his widow, under an alleged gift of the policy to her by Mr. Hallstead during his life.

It appears that Mr. Hallstead procured this policy just before leaving home, to be absent a few days. The only witness relied on to establish the alleged gift is Addie J. Knapp. Just before he started, she testifies, he came from the door with an insurance ticket in his hand. "He laid the ticket on the table, right in front of Mrs. Hallstead, and said: 'Here is an insurance ticket.' Mrs. Hallstead asked him what he had got that for? He said that she should take it, and take care of it, and if he got killed before he got back, she would be that much better off. He said three thousand dollars better off. She made a slight remark that a fool and his money was soon parted, and he said it only cost fifty cents."

Is that evidence sufficient to pass the title to this ticket from the husband to his wife?

This policy must not be confounded with one which a husband may procure on his life, and by the terms thereof the money be made payable to his wife on his death. On the contrary, the person insured under this policy is expressly prohibited from making any disposition of it. A clause therein declares: "The transfer of this ticket will forfeit all claims arising hereunder."

Was, then, the handing of this non-transferable ticket by the husband to his wife, accompanied by his statement and request as proved, sufficient to divest all his interest therein, and transfer the right of property to her? He did not say that he had procured it for her benefit. When a husband about to leave home, with the intention of being absent a few days, hands a paper to his wife and makes the remarks stated, is it reasonable to presume that either of them understood that she thereby acquired a right to it adverse to her husband? Unless she then and there acquired such adverse right, the gift was not executed. Linsenbigler *v.* Gourley, 6 P. F. Smith, 166. If he had sustained such injuries as would have made the company liable to pay fifteen dollars a week for twenty-six consecutive weeks, did the parties to this transaction understand that the wife could draw that money to the exclusion of her husband? It is very clear the language used justifies no such conclusion.

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In arriving at the intention of the parties, we must recognize the confidential relations which exist between husband and wife, as well as the fact that in his absence his valuable papers left at home depend largely on her care for their protection and security. The fact of leaving the policy in her care, and requesting her to take care of it, imposed no unusual duty on a wife. The casual remark, that in case of his death she would be three thousand dollars better off, reasonably interpreted, meant his estate would amount to that much more.

It is not denied that a husband may make a valid gift to his wife of money or chattels, by delivery of possession and language proving such intention. Crawford's Appeal, 11 P. F. Smith, 52. It should, however, clearly show an intention to part with both possession and property. Either one alone is not sufficient. Trough's Estate, 25 Id. 115. A careful consideration of this whole transaction fails to convince us that the husband intended to part with his right of property in the policy when he handed it to his wife. His language fairly interpreted conveys no such idea. There is no evidence that she understood, when she received it, that she took it otherwise than his custodian, to hold it in his absence. Her possession was his possession.

Her subsequent action in regard to the policy clearly shows this to have been her understanding. Soon after the death of her husband, letters of administration on his estate were granted to her and one George S. Harding. The auditor found as a fact that the inventory and appraisement filed in the register's office, and purporting to have been made at the request of both of said administrators, contained an item for "Life Insurance" for a specific sum, which included this accident policy in question. Conceding that act, under the circumstances shown, may not operate as an estoppel so as to bar her right to the proceeds of the policy, if otherwise entitled thereto, yet it is certainly persuasive evidence that she did not then claim it in her own right. This item was not included in the inventory without her knowledge, for her attention was called to it at the time.

We therefore conclude there was no intention to transfer to his wife any right of property in the policy, and the learned judge erred in holding otherwise.

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Decree reversed at the costs of the appellees; the exceptions to the report of the auditor are dismissed, and the account as re-stated by him is confirmed.

John A. Sittser and W. E. & C. A. Little, for the appellants.
Steuben Jenkins and Garrick M. Harding, for the appellees.

Daniel Strebeigh Bennet, a member of the Luzerne county bar, died at his residence, 26 South Franklin street, in this city, on Tuesday, September 16, 1884, after an illness of only a month, and is another startling reminder that the grim "king of terrors" is no respector of either youth or physical strength. Major Bennet had been a picture of health, and the community will find it hard to realize that he is dead.

During the summer he found that too close application to business had overtaxed his strength, and he participated in the state camp of the National Guard at Gettysburg, with the belief that the change of scene would fully restore him. On the contrary, it seems to have planted the seeds of that insidious disease, typhoid fever, which, before he was aware of it, had taken a firm and relentless hold of him. He returned to participate in the excitement of a political canvass, and no sooner was his object accomplished and his nomination secured than his bodily powers gave way, and he took to his bed, his physician predicting a serious illness by reason of having deferred so long in seeking medical advice. His illness at that time had the form of intermittent fever, but gradually assumed the typhoid type, though draining the vital forces so slowly as scarcely to excite solicitation. On Friday, symptoms of perforation of the intestine manifested themselves—the almost infallible percursor of a fatal termination—and on Saturday a consultation of physicians pronounced the case a hopeless one.

Daniel Strebeigh Bennet was born at Fairfield, near Williamsport, Lycoming county, September 3, 1853, and was consequently but thirty-one years of age, his father being George Bennet, now of Montoursville, and who, with his wife, two sons, and two daughters, survive the deceased. Young Bennet was brought

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p on his father's farm, and received the advantages of such strict and public schools as his neighborhood afforded, and terwards was graduated with distinguished honors by the ennsylvania State college in 1875. While there he took the escribed three years' course in military tactics, thus fitting him r the position he was subsequently to occupy in the military of e state. Soon after graduating, he came to Wilkes-Barre, and tered as a law student with E. P. & J. V. Darling, he being mitted to the bar June 11, 1877, after a highly creditable amination.

From a child he had a passion for a military life, and when ly ten years old he participated in the battle of Gettysburg as drummer boy attached to an independent company. Much the credit is due him for the high standard which our local litary has reached. He was instrumental in organizing Com- ny F of the Ninth regiment, N. G. P., and was elected its cap- n July 14, 1879. October 30 of the same year, he was elected najor of the Ninth regiment, and at the time of his death ranked third major in the State Guard of Pennsylvania. In March of e present year he was appointed quartermaster of the Third gade, on the staff of General J. K. Siegfried, with the rank of ajor.

Major Bennet's industry and integrity soon won him an envi- le place at the Luzerne bar, and even in the few years during ich he had practiced he built up a legal business that would credit to a much older man. He was a worker in the legal ofession, as he was in everything which he undertook, and astered every obstacle which presented itself. In June, 1883, was elected a director of the Third school district, and dis- arged the duties of that trust with fidelity and marked satis- tion. He was a member of Lodge 61, F. and A. M., and was ir knight in Dieu le Veut commandery, of this city. He was o a thirty-second degree member of Bloomsburg consistory.

In politics he was a republican, and one of the most active orkers in the local organizations, notably the Republican League Wilkes-Barre. In August last he was nominated by acclama- on for assembly from the First legislative district, comprising e city of Wilkes-Barre, and on the day following he was pros-

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trated with the illness which has since caused his death. Four years ago Major Bennet was united in marriage to Miss Mary Margaret, daughter of Lawrence Myers, of this city, his young widow surviving him. They had no children.

The Bennet family belong to the pioneer stock of Wyoming valley, Thomas Bennet having come here from New England with the early settlers. He and his young son were in the fort at the time of the battle, and were taken prisoners by the Indians, though afterwards making their escape. The family subsequently returned hither, and became extensive landowners on the Kingston side of the river. The only male descendant hereabouts bearing the family name is Andrew Bennet, an uncle of deceased, who has a farm in the Narrows, near Pittston. George Bennet, father of deceased, removed from Wyoming valley to Montoursville many years ago. Of this family was Major Bennet's uncle, Charles Bennet, who was admitted to the bar of Luzerne county April 7, 1845, and who died in 1866, aged forty-eight years. His widow still lives with her daughters at the family residence on River street.

BAR MEETING.

A large meeting of the members of the Luzerne county bar was held on Wednesday afternoon, September 17, 1884, in the bar office, to take such action as might be suggested by the death of Major D. S. Bennet, a member of the Luzerne bar. The meeting was called to order by General McCartney, who named Geo. R. Bedford as chairman, and he was seated as such. George K. Powell was chosen secretary.

Mr. Bedford, the chairman, in taking his seat, said it was not necessary to inform them of the occasion of their gathering. The sad news was known to all. The death of Major D. S. Bennet, a young man just entering on the brightest portion of his career—just reaching the fruit of years of work—comes home to us all with a dreadful suddenness and peculiar sadness. He desired to hear from others.

J. V. Darling made an eloquent and feeling tribute to the character of the deceased. The death was sudden to all, and to him it was a shock. Especially shocking was it to all who had

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any intimate association with the deceased. I knew him, said Mr. Darling, as a man very strong physically. I left him but a few days ago with a pleasant greeting on my way out of town, and I return to find the door bound with crape. Words of eulogy from my lips, knowing him as I did, might seem overwrought praise, but I knew him as an active man and one of singular persistence in that which he undertook. I may lay a deep and a sincere regret and a profound sorrow on the grave of him whom we to-day meet to mourn.

W. P. Ryman said that it was difficult to focus any man's character at such short range. Such events as this greatly disturb us. In all of Mr. Bennet's dealings, there was thorough conscientiousness and uprightness. He was fair to his fellows of the bar and to his clients. He was always industrious and ambitious. He achieved success beyond our expectations. He was not conspicuous as a lawyer, but he was successful in using his profession to advance himself in other directions. He attained to great military distinction, and this was one of the evidences of his ability. He was a man of the very best intentions. His theories of life were excellent. He had great good sense and judgment. Had he lived he would have become a conspicuous and honorable member of the bar. His aims were high. He would have succeeded remarkably well had he lived. The speaker said he was so overcome by the suddenness of the death that he could not express himself as he could wish. He extended his sympathy to the friends, and reiterated his great sorrow for the death of his associate.

Hon. H. B. Payne spoke of the occasion as singularly solemn in its character. Hitherto the bar had many times met to speak of the merits of deceased members, but those from whom it parted were well advanced in life. The mature only have been removed. The youth of the deceased makes this a case of peculiar sadness. Mr. Payne knew him very early in his career, when he first came to Wilkes-Barre, and he was struck with his strong mental and physical characteristics. His physique and vitality and spirit were remarkable, and one could not but admire him in his grand physical strength and fine mental abilities. He had confidence in himself, the outgrowth of this strength. He

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came here to win a place among us, and was determined to do it. He had within him all the elements of success. He had great ambition, and the physical health to back it. His study was of the earnest kind. He was a hard student. He meant to make a success of his life. He was a pleasant and affable gentleman. He was courteous, genial, and hearty in all his intercourse. He seemed just what he was, one with strength to succeed and willingness to put forth all his strength to achieve success. He was a hopeful, persistant man. It is inexpressibly sad that the career of one should be so suddenly cut off, and just when he seemed about to realize the beginnings of his hopes. His earnestness was building him up a grand promise, and that he should be laid low at such a time is indeed sad. No meeting of this bar has been so sad in this direction. Earnest, zealous, frank, fair, reliable, ready to carry out anything, and able to undertake anything, was this man. He was a true man, promised to accomplish much good, and to become an honor to the Luzerne bar. He was a gentleman in his manner, expression, and acts. In him we have lost one who would have been an honor to us, and his loss will be deeply felt by every member of the bar. His death conveys a lesson that will not soon be forgotten.

Frank W. Wheaton, Major Bennet's law partner, said that during all his association with the deceased he had found him strictly honest and possessed of the highest type of integrity. He was a man of strong feelings. He granted favors willingly and cheerfully. He possessed great industry. He was faithful in everything he undertook. The speaker dwelt feelingly upon the personal loss he sustained by Major Bennet's death, and nothing but time could ever accustom those who were intimate with him to the loss they had sustained.

Mr. Ryman moved the appointment of a committee of five to draw up resolutions, and Messrs. Ryman, Payne, Foster, Wheaton, and Nichols were appointed such committee, to report at 2.30 P. M., to which time an adjournment was agreed upon.

On motion of Judge Rice, the bar determined to attend the funeral in a body, and the meeting was then adjourned.

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A meeting of the Luzerne bar was held, pursuant to adjournment, at 2.30 P. M. The committee on resolutions having been called upon for its report, presented the following touching the decease of its late associate, Daniel Strebeigh Bennet, and they were read by W. P. Ryman:

The bar of Luzerne, with profound sadness, learns of its bereavement in the death of Daniel S. Bennett, whose short career has been marked with unusual distinction and honorable promotions. Possessed of a vitality and physique that promised well for a long and useful life, young, strong, and, at a time when fortune and fame seemed about to crown his efforts, he was cut down almost in a day. In order that some proper and permanent testimony may be preserved of the respect and esteem in which he was held by his brothers in the legal profession, be it by the members of this bar

Resolved, First, That in the death of Daniel Strebeigh Bennet, the Luzerne bar has lost an honored member, and the community in which he lived a prominent and useful citizen.

Second, That in the midst of our own sadness, we are not unmindful of the still greater sorrow that has fallen upon those who were bound to him in the nearer relations of wife, parents and family.

Third, That the bereaved and stricken family be tendered our sincerest sympathy.

Fourth, That we attend the funeral of our deceased brother in a body, and wear the usual badge of mourning.

Fifth, That these resolutions be published in the official legal publication of Luzerne county; that the court order the same to be entered at length upon the minutes of the Court of Common Pleas; and that a copy of the same be sent to the widow of the deceased.

At a meeting of the Republican County committee, held on Tuesday, September 16, 1884, it was unanimously

Resolved, That the intelligence of the death of Major D. S. Bennet, the nominee of the republican party for the General Assembly in the First district of Luzerne county, has been received by this committee, and has occasioned profound regret. We mourn his loss as that of a generous friend, before whom a

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brilliant career was opening, an earnest worker in a cause he believed to be right, and an honorable man, whose exertions had won for him an enviable place in the community in which he lived. We tender his sorrowing family our sincere sympathy in this their sad bereavement.

Resolved, That this resolution be published in the county papers, and an engrossed copy be presented to his widow.

At a meeting of the Republican City committee, held at the League rooms on Wednesday, September 17, 1884, the following resolutions were adopted:

WHEREAS, This committee has learned with deep sorrow of the death of Major D. S. Bennet, therefore

Resolved, That in his death we mourn for a good and upright citizen, a useful and pleasant associate and companion, and an active and progressive man.

Resolved, That this committee attend the funeral in a body.

A special meeting of the Third district school board of the city of Wilkes-Barre was held Wednesday, September 17, 1884. The president stated the object of the meeting to be for the purpose of taking action regarding the death of Major D. S. Bennet, late member from the Seventh ward.

Mr. Hand offered the following resolutions, which were unanimously adopted:

WHEREAS, It having pleased an all-wise Providence, in its mysterious workings, to remove from our midst Major D. S. Bennet, member from the Seventh ward, his fellow members believe it to be their duty to express their regard for him as a conscientious and pains-taking director. Therefore, be it

Resolved, That during the time Mr. Bennet was a member of the Third district school board of the city of Wilkes-Barre, he was active and enthusiastic in promoting the success of the schools.

Resolved, That the fidelity and singleness of purpose shown by him for the advancement of our schools are worthy of commendation.

Resolved, That in his death the board has lost a faithful member, and the schools a firm friend and supporter.

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Resolved, That we deeply sympathize with the widow of our deceased member in her sudden and great affliction.

Resolved, That the members of the board attend the funeral in a body.

Resolved, That the schools of the district be closed during the time of the funeral.

Resolved, That these resolutions be engrossed and given to the widow, and a copy be furnished to the papers of the city for publication.

Headquarters Ninth Regiment Infantry, Third Brigade, N. G. P., Wilkes-Barre, September 17, 1884.—General Orders, No. 13.—It is with great sorrow that the commanding officer announces to the Ninth regiment the death of Major Daniel S. Bennet, formerly of this command, which occurred at his residence, in this city, on Tuesday, September 16th, 1884.

Major Bennet entered the National Guard service with Company F, and, upon its organization, was elected captain, July 7th, 1879.

On October 30th, 1879, he was chosen major of the regiment, which position he filled, with credit to himself and the guard, until appointed to the staff of General Siegfried in April last.

This rapid promotion was in recognition of his zealous devotion to duty and his industry in all matters pertaining to the various positions he held.

The death of this efficient officer will prove a severe loss to the service, and is deeply regretted by every member of the guard.

The officers of the regiment will wear the prescribed mourning upon all occasions of duty for the next sixty days, and the regimental colors will be draped for the same period.

By order of Colonel G. Murray Reynolds.

WM. C. PRICE,
First Lieut. Acting Adjutant.

The funeral of Major D. S. Bennet took place Thursday afternoon, September 18, 1884, from his residence on Franklin street. Before the hour set, 3.30 P. M., a long line of carriages had assembled on the street, and many of the friends of deceased had

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gathered at the residence. The officers of the Ninth regiment assembled at Colonel G. Murray Reynolds' office, and from there marched to the house. On the conclusion of the bar meeting in the court-house, the lawyers, in a body, walked down to be present at the ceremonies. The members of Lodge 61, and Landmark Lodge, 442, F. and A. M., and Dieu le Veut Commandery, 55, K. T., gathered at masonic hall at 2.30 P. M., and, in white gloves and blue ribbons on breast, marched to the residence. Rev. Horace E. Hayden was the officiating minister, the services being according to the ritual of the Episcopal church. The St. Stephen's choir sang some appropriate selections. The remains were enclosed in a plain black cloth casket, with silver mountings, on which lay a lovely pillow of white and colored flowers. The funeral being in charge of the Masonic fraternity, the pallbearers were all members of that order. They were Walter S. Biddle, G. Mortimer Lewis, W. E. Doron, W. L. Raeder, Alexander Lendrum, and Captain Thomas C. Parker. On the conclusion of the services, the funeral cortege started. The Masonic fraternity and the Knight Templars took the lead, followed by Rev. Mr. Hayden, the military, members of the bar, and friends in carriages. Three members of General Siegfried's staff were in attendance—Major Pennman, Captain Jones, and Major Lewis. The following officers of the Ninth regiment were present: Colonel Reynolds, Lieutenant-Colonel Keck, Major O. F. Harvey, Adjutant A. D. Moore, Captains Horton, Hughes, Colvin, Murray, Stark, Dunn, and Reap, and Lieutenants Price, Wright, Moore, Stranberg, Crotzer, and Masters. The directors of the Third school district and the principals of the schools were also present to pay the last tribute to their departed friend and associate. John Laning acted as marshal.

The cortege took its way across the bridge, and wound slowly over the Kingston and Wyoming roads to Forty Fort cemetery, where the interment was made. At the grave the services were taken charge of by the masons, Hon. H. B. Payne officiating as worshipful master. A quartet, composed of W. S. Biddle, Frank Puckey, W. L. Raeder, and W. E. Doron, rendered some well chosen hymns, and in a few moments the casket had disappeared beneath the fast falling earth.

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HERIFF'S SALES.

Abstract of property to be sold by J. S. Oberren-r, Sheriff of Luzerne county, on Saturday, October 11, D. 1884, at 10 o'clock A. M., at the Arbitration om, in the Court House, Wilkes-Barre, who will oceed with the different properties in the order in ich they are numbered, to wit:

1

Suit of Edna Etta Lawrence, use of Pearce, exr., v. arlotte Ross. Bedford, Att'y.

Those two tracts of land in the township of Lehman, unded on the southeast by lands of A. A. Ketcham, the northeast by lands of Charles P. Barton, on the rthwest by lands of Margaret Beard, and on the uthwest by the Lake road, containing about 31 acres land, be the same more or less. The other piece gins at a corner on the road adjoining lands of rah E. King, thence along Sarah E King's line 15 rches to a corner adjoining lands of S. P. Ide, thence rods to a hickory corner, thence about 4 perches to e road leading from Harvey's Lake to Huntsville, ence along said road in a southeasterly direction out 24 perches to place of beginning; containing 1 re and 120 perches of land.

2

Suit of Samuel Bach v. Philip McKinsey, John adt, and Herman Kampa. Gates, Att'y.

A lot of land on the corner of Broadway and Arch eet, in the borough of Nanticoke, beginning at said rner of Broadway and Arch street, thence along Arch eet 150 feet, thence 50 feet, thence along line of lot No. 50 feet to Broadway, thence along said Broadway feet to the place of beginning; containing 2500 square t of land, more or less; upon which is located a 2-ry frame building 38 by 46 feet.

3

Suit of Margaret Hsuse, to the use of Charles Haas, Richard N. Snyder and Ernst Frederick. Jackson, Att'y.

All that lot of land in Sugarloaf township, beginning a corner on the Ridge road, thence by land of M. Brundage 45 perches to a corner, thence by land of L. Cressler 10 7-10 perches, thence by land of M. Brundage 45 perches to a corner, thence 10 perches d 7 links to the place of beginning; containing 3 res, more or less, on which are erected one 2-story me dwelling house, barn, spring house, outbuildings, it trees, well water.

4

Suit of Charles H. Knelly, assignee, v. Solomon ller. Kisner, Att'y

All that lot of land in Sugarloaf township, com-ncing at a stone corner of land late of George Nixon, nce by same 69 2-10 perches to post, thence by land Jacob Fetter 87 perches to stone, thence by land of ntral Coal Company 13 7-10 perches to stone corner, nce 48 perches to white pine tree, thence 11 4-10 rches to chestnut tree, thence 15 7-10 perches, thence 6-10 perches to post, thence 74 perches to the place beginning; containing 41 acres and 8 perches; hav-erected thereon a frame dwelling house, barn, and er outhouses, with orchard.

5

Suit of the Plymouth Building Association, assigned Mary Weir, v. William W. Jones. Shonk, Att'y.

All that lot of land, in Plymouth borough, Luzerne nty, Pa, beginning at a corner on the west side of treet, thence in a westerly direction along land late Thomas Chalan 150 feet to the Bull Run railroad, nce along said railroad in a northerly direction 50 t to a corner, thence in an easterly direction in a e parallel with said Chalan line 150 feet to said eet, thence along said street in a southerly direction feet to the place of beginning; containing 7500 square t of land, more or less; all improved, with one two-ry wood dwelling house with basement underneath, rn, outbuildings, and fruit trees thereon.

6

Suit of William Johnson et al., now assigned to A. Peters and M. G. Peters, v. Joseph Speck and A. Speck, his wife.

A lot of land in the borough of Freeland, beginning a point on the south side of Walnut street 249 feet om the corner of Pine street and Walnut street, and extending along Walnut street 41 feet 6 inches to lands of Birbeck estate, and of that width in length or depth; southerly 150 feet 3 inches to a public alley, saving in front of said lot 6 feet for public sidewalk and along the rear 6 feet for a public alley, which are reserved and dedicated for same purpose, being lot No. 7 in plan surveyed by S. Benner, and improved with one 2-story frame dwelling and outbuilding. 38-40

ORPHANS' COURT SALE.

Estate of Thomas C. Harkness, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Saturday, the 18th day of October, A. D. 1884, at 10 o'clock A. M., the following valuable real estate, to wit:

1. All that lot of land on the westerly side of Franklin street, in the city of Wilkes-Barre, beginning at a corner on said Franklin street by lands of the estate of Frederick McAlpine, deceased, thence by the same 225 feet to a corner of lot of William McDermott, thence by the same and lot of George Farris 42 feet to a corner by lands now or late of E H. Chase, thence by the same 225 feet to a corner on said Franklin street, thence along said street 42 feet to the place of beginning; containing 9450 square feet of land more or less; improved, with a large 2-story brick dwelling house with mansard roof, and all modern improvements.

2. The surface of all that lot of land in the city of Wilkes-Barre, beginning at a corner of Andover street and Arch street in said city, thence along said Andover street about 880 feet to Grove street, thence along said Grove street about 300 feet to Spring street, thence along said Spring street 608 6-10 feet to Arch street, thence along said Arch street about 403 feet to the place of beginning, being lots Nos. 20 to 35, both included, and lots Nos. 52 to 64, both included, in the plan of lots known as the Lockhart lots.

3. The surface of all that lot of land in the city of Wilkes-Barre, beginning at a corner of Main street and Andover street in said city, thence along said Andover street about 208 feet to a corner on a 24 foot alley, thence along said alley about 155 feet to a corner on lot No. 90 in the plot hereinafter referred to, thence along said lot No. 90 about 200 feet to a corner on said Main street, thence along said Main street about 100 feet to the place of beginning, being lots Nos. 88 and 89 in the plan of lots known as the Lockhart lots. Lot No. 88 is improved with a frame dwelling house.

TERMS OF SALE.—On piece No. 1, one-fourth down on day of sale, one-fourth on confirmation of sale and delivery of deed, and the balance, with interest, from confirmation as follows: one-half of balance in six months, and remainder in one year from confirmation. As to pieces Nos. 2 and 3, $25 on each lot down, $25 on confirmation of sale and delivery of deed, and balance, with interest, from confirmation as follows: one-half of balance in one year, and remainder in two years from confirmation. Pieces Nos. 2 and 3 will be sold either in single lots or in blocks. Deferred payments in all cases to be secured by bond and mortgage on the premises.

ISAAC LIVINGSTON,
Administrator.
E. S. OSBORNE,
R. D. EVANS,
Attorneys. 38-40

SALE OF BONDS AND COUPONS.

There will be sold at public sale, at the office of the undersigned, at Pittston, Pa., on Monday, October 20, 1884, at 2 o'clock P. M., for the benefit of whom it may concern, six Bonds of the Lackawanna & Susquehanna Coal and Iron Co. (commonly known as the West Side Bonds), to wit: Bonds Nos. 622, 748, 749, 750, 751, and 752, each in the sum of $1000, with the coupon of June, 1879, and all subsequent coupons attached. Terms Cash.

GEO. S. FERRIS,
39-41 Attorney.

WILLIAM S. McLEAN,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

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ESTATES TO BE AUDITED BY THE Orphans' Court of Luzerne county. Notice is hereby given that accounts have been filed and confirmed absolutely by the court in the following estates:

1. David Benscoter; W. J. and F. M. Benscoter, administrators, and W. J. Benscoter, trustee; 7th October, 1884.

2. John B. Wood; John G. Wood and John Espy, executors; 7th October, 1884.

3. Giles Slocum; Geo. S. Bennett, James S. Slocum, and Abram Nesbitt, executors; 8th October, 1884.

4. Mary Ann Davis; Abram Nesbitt, administrator; 8th October, 1884.

5. William Sharpe; Richard Sharpe and Geo. Ruddle, administrators; 9th October, 1884.

6. Antonette Beck; Charles H. Cooke, administrator; 9th October, 1884.

7. Calvin Halleck; Jesse Halleck, administrator; 9th October, 1884.

8. Reuben Kisner; C. W. Kisner and Cordilla Kisner, administrators; 10th October, 1884.

9. Gottlob Ulmer; Maria Ulmer and W. F. Martz, executors; 10th October, 1884.

10. Rachel P. Williams; Thomas D. Davies, administrator; 11th October, 1884.

11. Mary Ann Duffy; F. Tracy and William Keating, administrators; 11th October, 1884.

12. John Merrit; Margaret Merrit, administratrix; 13th October, 1884

13. Sarah B. Kirkendall; William H. Kirkendall, executor; 13th October, 1884.

14. Hiram Kirkendall; Benjamin Evans and W. H. Kirkendall, executors; 13th October, 1884.

15. Martha Fairchild; Samuel Line, administrator; 14th October, 1884.

16. L. W. Drake; Ario Pardee, Calvin Pardee, and Elvira E. Drake, executors; 14th October, 1884.

17. William Witcraft; E. P. Morris, administrator; 14th October, 1884.

18. Levi Turnbach; Susan Turnbach, administratrix; 15th October, 1884.

19. Josiah R. Gregory; Fannie M. Gregory, administratrix; 15th October, 1884.

20. Mary Culver; Elisha Culver, administrator; 15th October, 1884.

The accounts enumerated and designated in the above list will be audited by the court, in the Court House, in the Orphans' Court room, during the session of court on the days set forth opposite the name of each estate, at which time all persons interested shall attend, if they see fit, and present their claims against said estate, or forever thereafter be debarred from coming upon said fund.

JOSEPH HENDLER,
38-40 Clerk O. C.

ESTATE OF JOHN KNORR, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE KNORR,
35-40 Wilkes-Barre, Pa.

NOTICE OF AUDIT.

Fritz et al. v. Eustice et al. I will distribute the proceeds of the real estate sale of the estate of Maria Fritz, deceased, at my office, on Wednesday, the 15th of October, 1884, at 10 o'clock A. M., at which time and place those interested must present their claims or be debarred from coming in on said fund.

S. J. STRAUSS,
38-41 Master in Chancery.

NOTICE IS HEREBY GIVEN, THAT OWEN Griffiths, Receiver in the case of Jenkins township v. Yatesville borough, in Equity No. 9, April term, 1879, filed his account September 24, 1879, and that the same will be confirmed November 10, 1884, unless exceptions are filed on or before that time.

J. M. NORRIS,
Prothonotary.
Q. A. GATES, Attorney. 39-41

NOTICE.

Estate of Elizabeth Whitmore, deceased. All persons interested in the above estate are hereby notified that the Orphans' Court of Luzerne county, on petition of F. Yates, a legatee, have granted a rule to show cause why the real estate late of said decedent should not be sold for payment of legacies returnable first day of October term, 1884 (October 6, 1884), and that on that day, at 10 o'clock A. M., a decree authorizing such sale will be applied for.

GEORGE S. FERRIS.
38-40 Attorney for Petitioner.

CHARTER.—NOTICE IS HEREBY GIVEN, that the undersigned will apply on the 10th October, 1884, for a charter for a Water Company, the purpose of which will be to supply inhabitants of Laurel Run borough, in Luzerne county, with water for domestic use.

CHAS. PARRISH. JOHN C. PHELPS.
CHAS. M. CONYNGHAM. PAUL A. OLIVER.
FRED. PARRISH. H. W. PALMER.
37-39

WIDOWS' APPRAISEMENTS.

Notice is hereby given to all persons concerned, that widows' appraisements in the following estates have been approved nisi by the Orphans' Court of Luzerne county, and, unless exceptions are filed, will be presented for final approval on Monday, the 6th day of October, 1884:

J. W. Rinker, Philemon Santee, John Holmes, Michael Angelo, and Joseph B. Kelley, deceased.

JOSEPH HENDLER,
38-40 Clerk O. C.

IN THE COURT OF QUARTER SESSIONS of Luzerne county. No. 168, June sessions, 1884. In Re Division of Sixth Election District in Hazle township into two election districts. Notice is hereby given, that the report of the Commissioners in the above stated case has been filed with the Clerk of the Court of Quarter Sessions, and was confirmed nisi by the court on the 15th day of September, 1884, and that said report will be confirmed absolutely by the court unless exceptions thereto be filed not later than the third day of the next term of said court.

L. K. STRENG,
39-41 Clerk Q. S.

IN THE COURT OF QUARTER SESSIONS of Luzerne county. No. 171, June sessions, 1884. In Re Additional Election District in Black Creek township. Notice is hereby given, that the report of the Commissioners in the above stated case has been filed with the Clerk of the Court of Quarter Sessions, and was confirmed nisi by the court on the 15th day of September, 1884, and that said report will be confirmed absolutely by the court unless exceptions thereto be filed not later than the third day of the next term of said court.

L. K. STRENG,
39-41 Clerk Q. S.

IN THE COURT OF QUARTER SESSIONS of Luzerne county. No. 160, June sessions, 1884. In Re Additional Election District in Foster township. Notice is hereby given, that the report of the Commissioners in the above stated case has been filed with the Clerk of the Court of Quarter Sessions, and was confirmed nisi by the court on the 18th day of September, 1884, and that said report will be confirmed absolutely by the court unless exceptions thereto be filed not later than the third day of the next term of said court.

L. K. STRENG,
39-41 Clerk Q. S.

ESTATE OF PETER STYRLING, LATE OF Pittston township, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BRIDGET STYRLING,
39-44 Pittston, Pa.

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THE EXAMINER,

Box 3661, New York.

ESTATE OF CHARLOTTE KEIPER, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

LEOPOLD KEIPER,
35-40 Wilkes-Barre, Pa.

ESTATE OF JOHN P. KIRCHER, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARGARET KIRCHER,
35-40 Hazleton, Pa.

ESTATE OF MARTHA A. HUTCHISON, late of Plymouth, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

IRA D. PRINGLE,
37-42 Plymouth, Pa.

ESTATE OF HENRIETTA LUDWIG, LATE of Hazleton, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

C. W. KLINE,
36-41 Hazleton, Pa.

ESTATE OF HENRY BROWN, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

R. J. FLICK,
36-41 Wilkes-Barre, Pa.

ESTATE OF REUBEN D. ARNOLD, LATE of Shickshinny, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

M. H. ARNOLD,
M. E. WALKER, Shickshinny, Pa.
Attorney. 35-40

ESTATE OF HENRY HONEYWELL, LATE of Dallas township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES H. COOKE,
36-41 Dallas, Pa.

ESTATE OF JAMES B. HOPKINS, LATE OF Pittston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY HOPKINS,
36-41 Scranton, Pa.

ESTATE OF J. B. DOW, LATE OF WILKES-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WILLIAM B. DOW,
37-42 Wilkes-Barre, Pa.

ESTATE OF ELIZABETH B. DAMON, LATE of Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE S. FERRIS,
38-43 Pittston, Pa.

ESTATE OF CONRAD J. EICHLER, LATE of Hazleton, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

NICHOLAS EICHLER,
E. P. KISNER, Hazleton, Pa.
Attorney. 39-44

W. S. PARSONS,
ALDERMAN,
WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, OCTOBER 3, 1884. NO. 40.

Court of Quarter Sessions of Schuylkill County.

ROAD IN RYAN TOWNSHIP.

1. If only two of three road viewers participate in a view, the error is fatal.
2. If only two road viewers are present, they have no authority to choose a third.
3. The supervisors and auditors of all the townships through which the proposed road is to be laid out must be notified of the view.

For Luzerne county act see Purdon's Digest 1290.

The opinion of the court was delivered February 18, 1884, by

GREEN, J.—There are three exceptions to this report. The third exception is fatal. Three viewers were appointed. Only two of them went upon the ground to make the view or to sign the report. The third viewer, A. B. Cochran, was not present, and the other two viewers appointed Jacob Kershner, a surveyor, in his place to make the survey. He did not join in the report. But, under the act of assembly, all three of the persons appointed must make the view, and there can be no substitution by the viewers. Though I think it appears that Kershner only acted as a surveyor, and not as a viewer. As only two of the viewers appointed made the view, the objection must be sustained. The Act of Assembly of February 11, 1854, relating to road views in Beaver, Butler, and Lawrence counties, P. L. 62, and extended to Schuylkill by Act of March 6, 1860, P. L. 105, prescribes that "every view and review shall be made by the whole number (three) of persons so appointed, a majority of whom shall concur in their report in order to its confirmation by the court."

The second exception to the report is that only the auditors and supervisors of Ryan and Schuylkill townships were notified of the time and place of view, and that the officers of Rush

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township were not notified; and that the proposed new road lies in Ryan and Rush townships. This would be a fatal exception if sustained by evidence. No evidence has been taken on the subject. The report itself does not set forth, as it should, through what townships the road runs, and a memorandum upon the draft made by the surveyor accompanying the report would make it appear that the road begins and ends in Ryan township. In this I think there is a mistake. An examination of the large map of Schuylkill county will very clearly show that the road as laid out lies in Ryan and Rush townships, and not in Schuylkill. As the officers of Rush township were not notified, this would be a fatal objection if it did not already appear that the report of the viewers must be set aside for the reason first stated.

And now, February 18, 1884, report of viewers set aside.

Court of Common Pleas of Luzerne County.

WHITAKER v. PECK.

1. Where a judgment has been recovered by the sheriff, against a non-complying bidder at a sheriff's sale, for the difference of his bid and what the same property brought at a subsequent sale, the defendant will not be allowed to pay the amount of the judgment directly into court. The 86th section of the act of June 16, 1836, relating to the distribution of the proceeds of sheriff's sales, does not apply.
2. In such case the sheriff is trustee by "operation or implication of law," and it is his duty to collect the judgment and file his account of the proceeds, as in case of other trustees.
3. If the sheriff has been so long out of office that his bondsmen are no longer liable for his official acts, or for any other cause justice requires it, the court will direct that he execute a bond with sufficient sureties, to be approved by the court, conditioned for the faithful execution of the trust, before he will be allowed to receive the money.
4. On filing his account, showing a fund in his hands, it is then within the grasp of the court, and under the 28th section of the act of June 14, 1836, relating to trustees, an auditor may be appointed to report distribution.

Rule to show cause why defendant shall not have leave to pay money into court.

The opinion of the court was delivered June 23, 1883, by

WOODWARD, J.—The subject of the controversy in this case is the distribution of a sum of money amounting on May 12,

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1882, to three thousand and ten dollars and eighty-six cents. This money is in the hands of J. W. Peck, the defendant in the judgment, and represents damages recovered against him by the plaintiff, a former sheriff of the county, for his failure to comply with a bid made by him for certain real estate, sold as the property of one Thomas Trine. The application is for leave to pay the money into court, and for the appointment of an auditor to make distribution; and the affidavit upon which the rule was granted sets forth that the defendant, J. W. Peck, as a member of the firm of Peck & Wise, "are the owners of a large number of judgments against the said Thomas Trine."

If the money in question had been raised by a sale upon execution, then, under the act of assembly of June 16, 1836, Pur. 656, pl. 107, the court would undoubtedly have the power to order it paid into court and determine the method of distribution "according to law and equity." As the money was not raised by a sale upon execution, but was recovered in an action at law between private parties, we can have no control or jurisdiction over it under the act of assembly referred to. In the opinion of the Supreme Court, when deciding the case of Peck *v.* Whitaker, and which has been submitted to us in manuscript, we find the following language: "Here the sheriff is merely the legal plaintiff in the action; but it is solely for the benefit of the lien creditors entitled to the fund. The money, however, is not to be distributed on the trial of this cause. After the recovery is had, and due notice to all claiming to share in the fund, a distribution will be made. They are not parties to this suit, and the precise *quantum* of their shares is not to be decided now." The sheriff in whose name the action was instituted, and who had been long out of office, was simply a nominal plaintiff. He was acting as a trustee or stakeholder for all parties who might be legally entitled to share in the judgment to be recovered.

How shall this trust fund be distributed, and by whom? The act of June 14, 1836, section 15, Pur. 1417, pl. 15, provides "that whenever any assignment, conveyance, or transfer shall have been made, * * by deed, will, or otherwise, of any estate, real or personal, to any person or corporation, in trust for, or for the use or benefit of, any person, or association of persons, or cor-

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poration; also, whenever any trust shall arise by operation or implication of law, the Court of Common Pleas of the county in which any such trustee shall have resided at the commencement of the trust, etc., shall exercise the jurisdiction and powers given by law in regard to such trust." Section 28 of the same act is in these words: "It shall be lawful for the court having jurisdiction as aforesaid to make such orders and decrees, from time to time, for carrying into effect any trusts as aforesaid, either for distribution of moneys in the hands of assignees or trustees for the benefit of creditors, or for the payment or transfer of funds or effects in the hands of other trustees, or otherwise, as shall be according to law, or the terms or intent of the trust." The 29th section of the same act provides for the allowance, by the court, of reasonable compensation to trustees. Other sections vest in the courts the power to issue citations; to appoint auditors to adjust accounts of trustees; to examine trustees under oath; and to compel the production of books, papers, and documents, etc.; and the 36th section provides for an appeal to the Supreme Court by any party aggrieved by the decree or judgment of any Court of Common Pleas in any case relating to assignees or trustees.

In the present case, it is the duty of Peck, the defendant, to liquidate the judgment against him by paying the amount of it to Whitaker, the plaintiff. It will then be the duty of Whitaker, as trustee, to execute a bond, to be approved by the court, conditioned for the faithful execution, in all respects, of the trust imposed upon him. If he shall afterwards file an account showing a fund in his hands ready for distribution, or that he has taken the responsibility of making distribution himself, the court can, in either case, by the appointment of an auditor or otherwise, so control the appropriation of the fund as to effect a just and legal distribution of the money. But until the judgment is paid, and the money in the hands of the trustee, we have no jurisdiction in the premises. The trust in this case arises out of the operation of the act of June 14, 1836, before referred to, and must be exeted in pursuance of the provisions thereof.

The rule granted on May 1, 1883, is discharged.

W. H. McCartney and Q. A Gates, Esqs., for plaintiff.

I. P. Hand and S. B. Price, Esqs., for defendant.

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SHERIFF'S SALES.

Abstract of property to be sold by J. S. Oberrender, Sheriff of Luzerne county, on Saturday, October 11, A. D. 1884, at 10 o'clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are numbered, to wit:

1

Suit of Edna Etta Lawrence, use of Pearce, exr., v. Charlotte Koss. Bedford, Att'y.

Those two tracts of land in the township of Lehman, bounded on the southeast by lands of A. A. Ketcham, on the northeast by lands of Charles P. Barton, on the northwest by lands of Margaret Beard, and on the southwest by the Lake road, containing about 31 acres of land, be the same more or less. The other piece begins at a corner on the road adjoining lands of Sarah E. King, thence along Sarah E. King's line 15 perches to a corner adjoining lands of S. P. Ide, thence 14 rods to a hickory corner, thence about 4 perches to the road leading from Harvey's Lake to Huntsville, thence along said road in a southeasterly direction about 24 perches to place of beginning; containing 1 acre and 120 perches of land.

2

Suit of Samuel Bach v. Philip McKinsey, John Studt, and Herman Kampa. Gates, Att'y.

A lot of land on the corner of Broadway and Arch street, in the borough of Nanticoke, beginning at said corner of Broadway and Arch street, thence along Arch street 50 feet, thence 50 feet, thence along line of lot No. 1 50 feet to Broadway, thence along said Broadway 50 feet to the place of beginning; containing 2500 square feet of land, more or less; upon which is located a 2-story frame building 38 by 46 feet.

3

Suit of Margaret Hsuse, to the use of Charles Haas, Richard N. Snyder and Ernst Frederick. Jackson, Att'y.

All that lot of land in Sugarloaf township, beginning at a corner on the Ridge road, thence by land of M. Brundage 45 perches to a corner, thence by land of M. L. Cressler 10 7-10 perches, thence by land of M. Brundage 45 perches to a corner, thence 10 perches and 7 links to the place of beginning; containing 3 acres, more or less, on which are erected one 2-story frame dwelling house, barn, spring house, outbuildings, fruit trees, well water.

4

Suit of Charles H. Knelly, assignee, v. Solomon Keller. Kisner, Att'y.

All that lot of land in Sugarloaf township, commencing at a stone corner of land late of George Nixon, thence by same 69 2-10 perches to post, thence by land of Jacob Fetter 87 perches to stone, thence by land of Central Coal Company 13 7-10 perches to stone corner, thence 48 perches to white pine tree, thence 11 4-10 perches to chestnut tree, thence 15 7-10 perches, thence 6-10 perches to post, thence 74 perches to the place of beginning; containing 41 acres and 8 perches; having erected thereon a frame dwelling house, barn, and other outhouses, with orchard.

5

Suit of the Plymouth Building Association, assigned Mary Weir, v. William W. Jones. Shonk, Att'y.

All that lot of land, in Plymouth borough, Luzerne county, Pa , beginning at a corner on the west side of street, thence in a westerly direction along land late Thomas Chalan 150 feet to the Bull Run railroad, thence along said railroad in a northerly direction 50 feet to a corner, thence in an easterly direction in a line parallel with said Chalan line 150 feet to said street, thence along said street in a southerly direction 50 feet to the place of beginning; containing 7500 square feet of land, more or less; all improved, with one two-story wood dwelling house with basement underneath, barn, outbuildings, and fruit trees thereon.

6

Suit of William Johnson et al., now assigned to A. Peters and M. G. Peters, v. Joseph Speck and A. Speck, his wife.

A lot of land in the borough of Freeland, beginning at a point on the south side of Walnut street 249 feet from the corner of Pine street and Walnut street, and extending along Walnut street 41 feet 6 inches to lands of Birbeck estate, and of that width in length or depth; southerly 150 feet 3 inches to a public alley, saving in front of said lot 6 feet for public sidewalk and along the rear 6 feet for a public alley, which are reserved and dedicated for same purpose, being lot No. 7 in plan surveyed by S. Benner, and improved with one 2-story frame dwelling and outbuilding. 38-40

ORPHANS' COURT SALE.

Estate of Thomas C. Harkness, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Saturday, the 18th day of October, A. D. 1884, at 10 o'clock A. M., the following valuable real estate, to wit:

1. All that lot of land on the westerly side of Franklin street, in the city of Wilkes-Barre, beginning at a corner on said Franklin street by lands of the estate of Frederick McAlpine, deceased, thence by the same 225 feet to a corner of lot of William McDermott, thence by the same and lot of George Farris 42 feet to a corner by lands now or late of E. H. Chase, thence by the same 225 feet to a corner on said Franklin street, thence along said street 42 feet to the place of beginning; containing 9450 square feet of land more or less; improved, with a large 2-story brick dwelling house with mansard roof, and all modern improvements.

2. The surface of all that lot of land in the city of Wilkes-Barre, beginning at a corner of Andover street and Arch street in said city, thence along said Andover street about 850 feet to Grove street, thence along said Grove street about 300 feet to Spring street, thence along said Spring street 628 6-10 feet to Arch street, thence along said Arch street about 403 feet to the place of beginning, being lots Nos. 20 to 35, both included, and lots Nos. 52 to 64, both included, in the plan of lots known as the Lockhart lots.

3. The surface of all that lot of land in the city of Wilkes-Barre, beginning at a corner of Main street and Andover street in said city, thence along said Andover street about 208 feet to a corner on a 24 foot alley, thence along said alley about 155 feet to a corner on lot No. 90 in the plot hereinafter referred to, thence along said lot No. 90 about 200 feet to a corner on said Main street, thence along said Main street about 100 feet to the place of beginning, being lots Nos. 88 and 89 in the plan of lots known as the Lockhart lots. Lot No. 88 is improved with a frame dwelling house.

TERMS OF SALE.—On piece No. 1, one-fourth down on day of sale, one-fourth on confirmation of sale and delivery of deed, and the balance, with interest, from confirmation as follows: one-half of balance in six months, and remainder in one year from confirmation. As to pieces Nos. 2 and 3, $25 on each lot down, $25 on confirmation of sale and delivery of deed, and balance, with interest, from confirmation as follows: one-half of balance in one year, and remainder in two years from confirmation. Pieces Nos. 2 and 3 will be sold either in single lots or in blocks. Deferred payments in all cases to be secured by bond and mortgage on the premises.

ISAAC LIVINGSTON,
Administrator.

E. S. OSBORNE,
R. D. EVANS,
Attorneys. 38-40

SALE OF BONDS AND COUPONS.

There will be sold at public sale, at the office of the undersigned, at Pittston, Pa., on Monday, October 20, 1884, at 2 o'clock P. M., for the benefit of whom it may concern, six Bonds of the Lackawanna & Susquehanna Coal and Iron Co. (commonly known as the West Side Bonds), to wit: Bonds Nos. 622, 748, 749, 750, 751, and 752, each in the sum of $1000, with the coupon of June, 1879, and all subsequent coupons attached. Terms Cash.

GEO. S. FERRIS,
Attorney.
39-41

WILLIAM S. McLEAN,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

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ESTATES TO BE AUDITED BY THE Orphans' Court of Luzerne county. Notice is hereby given that accounts have been filed and confirmed absolutely by the court in the following estates:

1. David Benscoter; W. J. and F. M. Benscoter, administrators, and W. J. Benscoter, trustee; 7th October, 1884.

2. John B. Wood; John G. Wood and John Espy, executors; 7th October, 1884.

3. Giles Slocum; Geo. S. Bennett. James S. Slocum, and Abram Nesbitt, executors; 8th October, 1884.

4. Mary Ann Davis; Abram Nesbitt, administrator; 8th October, 1884.

5. William Sharpe; Richard Sharpe and Geo. Ruddle, administrators; 9th October, 1884.

6. Antonette Beck; Charles H. Cooke, administrator; 9th October, 1884.

7. Calvin Halleck; Jesse Halleck, administrator; 9th October, 1884.

8. Reuben Kisner; C. W. Kisner and Cordilla Kisner, administrators; 10th October, 1884.

9. Gottlob Ulmer; Maria Ulmer and W. F. Martz, executors; 10th October, 1884.

10. Rachel P. Williams; Thomas D. Davies, administrator; 11th October, 1884.

11. Mary Ann Duffy; F. Tracy and William Keating, administrators; 11th October, 1884.

12. John Merrit; Margaret Merrit, administratrix; 13th October, 1884

13. Sarah B. Kirkendall; William H. Kirkendall, executor; 13th October, 1884.

14. Hiram Kirkendall; Benjamin Evans and W. H. Kirkendall, executors; 13th October, 1884.

15. Martha Fairchild; Samuel Line, administrator; 14th October, 1884.

16. L. W. Drake; Ario Pardee, Calvin Pardee, and Elvira E. Drake, executors; 14th October, 1884.

17. William Wttcraft; E. P. Morris, administrator; 14th October, 1884.

18. Levi Turnbach; Susan Turnbach, administratrix; 15th October, 1884.

19. Josiah R. Gregory; Fannie M. Gregory, administratrix; 15th October, 1884.

20. Mary Culver; Elisha Culver, administrator; 15th October, 1884.

The accounts enumerated and designated in the above list will be audited by the court, in the Court House, in the Orphans' Court room, during the session of court on the days set forth opposite the name of each estate, at which time all persons interested shall attend, if they see fit, and present their claims against said estate, or forever thereafter be debarred from coming upon said fund.

JOSEPH HENDLER,
38-40 Clerk O. C.

ESTATE OF JOHN KNORR, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE KNORR,
35-40 Wilkes-Barre, Pa.

NOTICE OF AUDIT

Fritz et al. v. Eustice et al. I will distribute the proceeds of the real estate sale of the estate of Maria Fritz, deceased, at my office, on Wednesday, the 15th of October, 1884, at 10 o'clock A. M., at which time and place those interested must present their claims or be debarred from coming in on said fund.

S. J. STRAUSS,
38-41 Master in Chancery.

NOTICE IS HEREBY GIVEN, THAT OWEN Griffiths, Receiver in the case of Jenkins township v. Yatesville borough, in Equity No. 9, April term, 1879, filed his account September 24, 1879, and that the same will be confirmed November 10, 1884, unless exceptions are filed on or before that time.

J. M. NORRIS,
Q. A. GATES, Prothonotary.
Attorney. 39-41

IN THE COURT OF QUARTER SESSIONS of Luzerne county. No. 168, June sessions, 1884. In Re Division of Sixth Election District in Hazle township into two election districts. Notice is hereby given, that the report of the Commissioners in the above stated case has been filed with the Clerk of the Court of Quarter Sessions, and was confirmed nisi by the court on the 15th day of September, 1884, and that said report will be confirmed absolutely by the court unless exceptions thereto be filed not later than the third day of the next term of said court.

L. K. STRENG,
39-41 Clerk Q. S.

IN THE COURT OF QUARTER SESSIONS of Luzerne county. No. 171, June sessions, 1884. In Re Additional Election District in Black Creek township. Notice is hereby given, that the report of the Commissioners in the above stated case has been filed with the Clerk of the Court of Quarter Sessions, and was confirmed nisi by the court on the 15th day of September, 1884, and that said report will be confirmed absolutely by the court unless exceptions thereto be filed not later than the third day of the next term of said court.

L. K. STRENG,
39-41 Clerk Q. S.

IN THE COURT OF QUARTER SESSIONS of Luzerne county. No. 160, June sessions, 1884. In Re Additional Election District in Foster township. Notice is hereby given, that the report of the Commissioners in the above stated case has been filed with the Clerk of the Court of Quarter Sessions, and was confirmed nisi by the court on the 18th day of September, 1884, and that said report will be confirmed absolutely by the court unless exceptions thereto be filed not later than the third day of the next term of said court.

L. K. STRENG,
39-41 Clerk Q. S.

WIDOWS' APPRAISEMENTS.

Notice is hereby given to all persons concerned, that widows' appraisements in the following estates have been approved nisi by the Orphans' Court of Luzerne county, and, unless exceptions are filed, will be presented for final approval on Monday, the 6th day of October, 1884:

J. W. Rinker, Philemon Santee, John Holmes, Michael Angelo, and Joseph B. Kelley, deceased.

JOSEPH HENDLER,
38-40 Clerk O. C.

ESTATE OF LYMAN KRESGE, LATE OF Bear Creek township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

AMANDUS KRESGE,
E. P. & J. V. DARLING, Miner's Mills, Pa.
Attorneys. 40-45

ESTATE OF REUBEN D. ARNOLD, LATE of Shickshinny, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

M. H. ARNOLD,
M. E. WALKER, Shickshinny, Pa.
Attorney. 35-40

ESTATE OF DANIEL S. BENNET, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands, to present the same, without delay, to

MAGGIE M. BENNET,
F. W. WHEATON, Wilkes-Barre, Pa.
Attorney. 40-45

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THE EXAMINER,

Box 3661, New York.

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Monday, the 20th day of October, A. D. 1884, at 10 o'clock A. M., under the Act of the General Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation of Certain Corporations," approved April 29, 1874, and the supplements thereto, for the charter of an intended corporation to be called the "Wyoming District of Ancient Order of Foresters," the character and object of said corporation is benevolent; to commemorate the Ancient Order of Foresters, and specially to establish a District Court of such order in and for the county of Luzerne.

HINES & BELL,
40-42 Solicitors.

NOTICE.

Estate of Elizabeth Whitmore, deceased. All persons interested in the above estate are hereby notified that the Orphans' Court of Luzerne county, on petition of F. Yates, a legatee, have granted a rule to show cause why the real estate late of said decedent should not be sold for payment of legacies returnable first day of October term, 1884 (October 6, 1884), and that on that day, at 10 o'clock A. M., a decree authorizing such sale will be applied for.

GEORGE S. FERRIS.
38-40 Attorney for Petitioner.

ESTATE OF PETER STYRLING, LATE OF Pittston township, deceased.

Letters of administration, *cum testamento annexo,* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BRIDGET STYRLING,
39-44 Pittston, Pa.

ESTATE OF CHARLOTTE KEIPER, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

LEOPOLD KEIPER,
35-40 Wilkes-Barre, Pa.

ESTATE OF HENRIETTA LUDWIG, LATE of Hazleton, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

C. W. KLINE,
36-41 Hazleton, Pa.

ESTATE OF HENRY HONEYWELL, LATE of Dallas township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES H. COOKE,
36-41 Dallas, Pa.

ESTATE OF JAMES B. HOPKINS, LATE OF Pittston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY HOPKINS,
36-41 Scranton, Pa.

ESTATE OF ELIZABETH B. DAMON, LATE of Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE S. FERRIS,
38-43 Pittston, Pa.

ESTATE OF CONRAD J. EICHLER, LATE of Hazleton, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

NICHOLAS EICHLER,
E. P. KISNER, Hazleton, Pa.
Attorney. 39-44

ESTATE OF DANIEL K. MEADS, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

FRANCIS A. PHELPS,
E. P. & J. V. DARLING, Wilkes-Barre, Pa.
Attorneys. 40-45

CHAS. D. FOSTER,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

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ESTATE OF SARAH MASTERS, LATE OF Salem township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WESLEY RABERT,
Beach Haven, Pa.

C. B. JACKSON,
Attorney.

35-40

ESTATE OF J. B. DOW, LATE OF WILKES-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WILLIAM B. DOW,
Wilkes-Barre, Pa.

37-42

ESTATE OF HENRY BROWN, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

R. J. FLICK,
Wilkes-Barre, Pa.

36-41

ESTATE OF JOHN P. KIRCHER, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARGARET KIRCHER,
Hazleton, Pa.

35-40

ESTATE OF MARTHA A. HUTCHISON, late of Plymouth, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

IRA D. PRINGLE,
Plymouth, Pa.

37-42

ESTATE OF CONRAD SCHURCHARD, LATE of Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES ERMICH,
Hazleton, Pa.

40-45

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, OCTOBER 10, 1884. NO. 41.

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Court of Quarter Sessions of Luzerne County.

IN RE SCHOOL DISTRICT OF LUZERNE BOROUGH.

1. The act of April 11, 1862, is a remedial law, and its object was to provide for an equitable division of school property between the old and new school districts, in such a way as to justly distribute the burthen of taxation.

2. The old district cannot be deprived of its due share of the ownership, control, and benefits of the property taken off by the erection of a new district, without just compensation being made by the latter.

3. As the assessable value of the taxable property was the basis upon which the respective districts contributed proportionally towards the acquisition of the property to be divided, that is the proper basis for the division.

4. As to *cash on hand*, however, a different rule applies. That part thereof arising from *taxation* is to be divided according to the ratio of the *taxable property;* and that which is part of the *state appropriation* is to be divided according to the ratio of *taxables*.

5. Abington School District, 3 Norris, 182; Jenkintown School District, 6 W. N. C., 67; and Lower Allen School District, 10 Norris, 182, cited.

The opinion of the court was delivered September 15, 1884, by

RICE, P. J.—The 11th section of the act of April 11, 1862, (P. L. 473, P. D. 236, pl. 6) provides as follows: "When a new school district is formed, the court establishing the same shall determine, on hearing, whether an undue proportion of the real estate and school houses belonging to the old district, or districts, are within the bounds of the new district, and if so, how much money shall be paid therefor by the new to the old district, or districts, and if any money be on hand, or debt unpaid, or any tax or other claims be uncollected after the settlement of all accounts of the current year, the proper court shall divide said money or debt amongst the districts in such proportions, and shall make such order as to uncollected tax, or other claims, as shall be just." This act applies to a new district, created—as is

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the case in hand—by the erection of a borough out of a part of a township. In re Abington School District, 3 Nor. 179. But how is it to be determined whether the new district has an undue proportion of the real estate and school houses, and upon what basis shall the adjustment be made? No rule is prescribed by the act, nor does section 4 of the act of May 8, 1854 (P. L. 617, P. D. 236, pl. 4), positively govern the case. That section applied only to the division of school funds on hand, or due to the district, and even its provisions as to that matter seem to have been supplied by the section of the act of 1862 quoted, which authorizes a division of the same in such proportions as to the court shall seem just.

The act of 1862 is a remedial law. Its object, as we think, was to provide for an equitable division of the school property, not according to the needs of the respective districts, but in such a way as to justly distribute the burthen of taxation. If the inhabitants of the more thickly settled portion of the district, where there is likely to be a greater proportion of school houses, see fit to separate themselves from the other portions of the district by procuring a borough charter, and thus acquire the exclusive ownership and advantages of common property exceeding in value the proportion of taxes which they have contributed for the purpose of its acquisition, a manifest unfairness would result were it not for the power which this act vests in the court. It is to be observed that the erection of the new district was an act for which the old district was not responsible, and that the property thus acquired by the former is of a permanent nature. Upon what reason, then, or theory of public policy, ought the old district to be deprived of its due share of the ownership, control, and benefits of this property without just compensation being made by the new, which would not, with equal fairness, require one district to build the school houses of another in the first instance? We think there is none, and if there had been it would have been plainly expressed in the act. In the absence of evidence to the contrary it is to be presumed that the real estate and school buildings were acquired by taxation, based on the assessed valuations, and that the assessments of the current year—the year in which the division took effect—correspond

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proportionately with the assessments of former years; in other words, if there has been an increase or decrease of the valuations, the ratio of increase or decrease has been the same throughout the whole territory comprised within the present districts. We therefore take the valuations of the year 1883 as the standard. As the assessed value of the taxable property was the basis upon which the respective districts contributed proportionally towards the acquisition of the property to be divided, there would seem to be no more just basis for its division. Each district will then be made to bear its due proportion of the burthen of taxation according to the value of the property of which each now acquires the exclusive ownership and advantages. Such is the rule prescribed for the adjustment of the rights and liabilities of a township upon the erection of one or more boroughs out of the same (act June 12, 1878, P. L. 184), and while it is not binding on us here, it is, nevertheless, of some value as a legislative precedent in determining the course to be pursued in an analogous proceeding. So also the Supreme Court, so far as they have expressed an opinion upon the purpose of the act, have strongly intimated that it was to distribute the burthens of taxation. For example, Mr. Justice Sterrett said the act was necessary in order to provide, among other things, "for an equitable division of funds on hand, or compensation for school property acquired by the expenditure of the common funds." In re Abington School District, 3 Nor. 182. When the same case came up again the court said, "Looking at the great purpose of the act and the justice it affectuates among the people who bear the burthen of taxation for common schools, a law which distributes these burthens most equally, by an equitable distribution of property * * * * must be liberally construed." In re Jenkintown School District, 6 W. N. C. 67.

Our first impression was, and was so stated to counsel, that the number of taxables ought also to be taken into account, for the reason that the annual appropriation by the state is distributed on that basis. More mature reflection and examination have led us to reject this impression as erroneous, at least so far as the real estate and school houses are concerned. These annual appropriations are ordinarily applied to the support of the schools;

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the real estate and buildings are purchased and erected out of taxes levied for the purpose. See School Laws and Dec. (Ed. 1870) 91, 92, 93, and 94; Blair *v.* Boggs Township, etc., 7 C. 274. If it were a fact in this case that the annual sums received from the state, from the ordinary school tax, and from the building tax had been mingled, then our first impression might be correct. But as the case stands, we must presume that the sums received from each source have been ordinarily applied to their proper and legitimate purposes, and, therefore, it does nor appear, and there is no legal inference, the amounts received from the state have entered wholly or in part into the acquisition of the property under consideration.

Our final conclusion is, that the ascertainment of the due proportion of school property to which each district is entitled on a division, and the adjustment of the compensation which the new district is to make to the old, are to be based on the valuations of the taxable property, as determined by the assessments.

But with regard to the fund on hand ($1,215) a different rule must be adopted. We are not informed from what source this fund came; we may, therefore, safely assume that it came from the two ordinary sources, namely, taxation and the state appropriation. In the absence of evidence as to the precise amount which came from each source, we may also fairly assume that the portion of the fund to be divided which came from the latter source has the same ratio to the whole fund to be divided as the annual appropriation has to the whole sum received from both sources. We have taken the liberty of referring to the report of the state superintendent for the year 1883 for these data. Having thus ascertained approximately the portions of the fund which came from each source, the former is to be divided according to the ratio of the taxable property, and the latter according to the ratio of taxables. Where a new school district is erected out of an old one, the new district is entitled to a pro-rata share of the state appropriation for school purposes for the current year. Lower Allen School District *v.* Shiremanstown, etc., 10 Nor. 182.

The arithemetical processes by which the result sought for is reached, are based upon the following data, and are as follows:

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Kingston's school property . . .	$23,000 00	
Luzerne's " "	4,500 00	
		$27,500 00
Kingston's assessed value	$902,854 00	
Luzerne's " "	104,430 00	
		$1,007,284 00
Funds on hand		$1,215 00
Kingston's taxables	1,385	
Luzerne's "	343	
		1,728
State appropriation (1883)	$1,172 00	
Taxes	8,762 00	
		$9,934 00

From these data we get the following proportions:

FIRST.

School property to be divided	$27,500 00
$1,007.284.00 : $104,430.00 :: $27,500.00 : Luzerne's share, or	$2,851 00
Value of school property in Luzerne	$4,500 00
Luzerne's due proportion	2,851 00
Due from Luzerne to Kingston	$1,649 00

SECOND.

Funds on hand to be divided	$1,215 00
$9,934.00 : $1,172.00 :: $1,215.00 : share derived from state appropriation, or	$143 00
$1,215.00 minus $143.00 equals share derived from taxes, or	$1,072 00

The first of these sums ($143) is to be divided according to the number of taxables, for the reason that it was upon this basis that it was acquired. The latter sum ($1,072) having come from taxation is to be divided according to the assessed value of the taxable property, for the reasons already given. Hence:

1,728 : 343 : : $143.00 : Luzerne's share of first

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sum, or	$28 00
$1,007,284.06 : $104,430.00 :: $1,072.00 : Luzerne's share of second sum, or	$110 00
Total share of Luzerne	$138 00

THIRD.

Due from Luzerne to Kingston	$1,649 00
Due to Luzerne from Kingston	138 00
Balance due from Luzerne to Kingston	$1,511 00

And now, to wit, September 18, 1884, it appearing to the court that there is an undue proportion of the real estate and school buildings belonging to the old district of Kingston township in the new district of Luzerne borough, and that there is due therefor from the latter to the former the sum of $1,649; and it further appearing that, upon a division of the funds on hand, exclusive of the debt of $600, there is due from the former to the latter the sum of $138; it is therefore ordered, adjudged, and decreed that the said school district of Luzerne borough pay to the said school district of Kingston township the difference, to wit, the sum of $1,511.

Q. A. Gates, for borough.
Dickson & Atherton, *contra*.

Charles Edmund Rice was born September 15, 1846, at Fairfield, Herkimer county, N. Y. He is a descendant of an old Wallingford, Connecticut family of that name, his great-grandfather having been a teacher in Wallingford and New Haven for over forty years prior to the revolution. His grandfather, Moses Rice, was a native of Wallingford, where he was born in 1797, but removed to Salisbury, Herkimer county, N. Y., at an early age. He died in 1880. His wife was Roxana Cook, daughter of Atwater Cook, who was a descendant of Henry Cook, a native of Kent, England, who emigrated to the new world and was at Plymouth, Mass., before 1640. His son, Samuel, went to Wal-

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lingford in 1670 with the first planters. Mrs. Rice was born in Salisbury, Herkimer county, N. Y., September 25, 1777, and died September 15, 1852. Hon. Atwater Cook, of Salisbury, prominent in Herkimer county in his day, and who represented the county in the state legislature in 1831 and 1839, was a brother of Mrs. Rice. Thomas Arnold Rice, the father of Charles E. Rice, after his marriage removed to Fairfield. He was a leading man in his town, and was for many years a trustee of the Fairfield academy and the Fairfield Medical college. His wife was Vienna Carr, a daughter of Eleazer and Hannah Carr. The Carrs were natives of Salisbury and the family was originally from Connecticut. Charles E. Rice, son of Thomas Arnold and Vienna Carr Rice, was prepared for college at Fairfield academy, N. Y. This institution was incorporated in 1803, and for the first twelve or fifteen years of its existence was the only school of the kind in central or western New York in which thorough academic instruction could be obtained. After leaving the academy Mr. Rice entered Hamilton college, Clinton, N. Y., from which he graduated in 1867. After leaving college he went to Bloomsburg, Pa., where he taught for one year in the Bloomsburg Literary institute, in the meanwhile reading law with John G. Freeze, of that place. In 1868 and 1869 he attended the Albany Law School, from which he graduated in the latter year and was admitted to the bar of the Supreme Court of the state of New York. He then came to Wilkes-Barre, where he has since resided, and entered the office of his relative, Lyman Hakes, and was admitted to the bar of Luzerne county February 21, 1870. In 1874 he was the candidate of the republican party for the office of Orphans' Court judge, but was defeated by Daniel L. Rhone, the present incumbent. In 1876 he was nominated by the republican party for district attorney of the county, and was elected over P. J. O'Hanlan, democrat, by a majority of two thousand four hundred and forty-four, and this in a county that gave Samuel J. Tilden, who ran for president the same year, nearly four thousand majority. In 1879 he was the candidate of his party for law judge, and was elected over William S. McLean, democrat, and John Lynch, labor reformer. He is now the president judge of Luzerne county. Mr. Rice was one of the charter

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trustees of the Memorial Presbyterian church, and he is now one of the trustees of the Wilkes-Barre Female institute. He married December 18, 1873, Maria Mills Fuller, daughter of the late Henry M. Fuller, of the Luzerne county bar. They have two children living, Charles Edmund and Philip Sydney Rice. Lieutenant Adam Clarke Rice, of the 121st regiment New York Volunteers, who died during the recent civil war, was a brother of Charles E. Rice. His "letters and other writings" in a book of one hundred and sixty-six pages were compiled by Judge Rice, and printed for private circulation among the friends of the lieutenant.

There have been good lawyers who have not made good judges. There have been some good judges who were not among the best lawyers. The man who combines the qualities essential to success, both at the bar and on the bench, and whose qualities never forsake or fail him in either capacity, is a remarkable man. The man who reaches the bench and sits long enough on it to warrant this verdict of himself before he has reached his fortieth year is one man among ten thousand. This reads like extravagant commendation, yet it is fully merited in the case of Judge Rice. His progress to one of the highest honors of the profession, to a position that would justify the honorable seeking of a lifetime, has been rapid, yet it has had no meretricious aids, and is the reward solely of valuable services faithfully performed. Judge Rice's practice in the courts attracted attention with its very beginning. There was a quiet force in his methods, and a clean cut vigor in his arguments, that brought him at once into an enviable notoriety. In attestation of this was his nomination for the responsible position of judge of the Orphans' Court within five years after his admission. Men of even less service in the profession have, upon occasion, had similar honors awarded them, but it was generally in recognition of their activity and worth as workers in partisan politics, a field in which Judge Rice has never made himself conspicuous. Only two years later, as already stated, he was made a candidate for the district attorneyship, and the remarkable majority by which he was elected was as much a deserved tribute to the popular esteem in which he was held as to the fact that his opponent's nomination

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had been achieved in despite of the protests of a large contingent, both professional and lay, of his own party. As prosecutor of the pleas of the commonwealth he achieved a most enviable reputation. He was always ready. He was rigorously impartial. The public had a live and trusty representative in the Quarter Sessions, and while the law or the facts were never strained to convict the accused for the glory of the prosecution, the wrong-doer who had not escaped the guantlet of the grand jury room was made to realize that the law could not be offended or public rights or individual liberties infringed with impunity within his jurisdiction. He never promised more than he felt that he could fully prove, and seldom proved less than he had promised. There was never any rant or straining for dramatic effect in his presentation or summing up of a case. His pleas were calm, dignified, incisive, and without any waste words. The duties of the office were performed, in short, with such becoming earnestness and fidelity as is seldom equaled and never excelled. In such a position and thus discharging his trust he made enemies, of course, but they were of the sort whose enmity begets for its object the friendship of better men. When in 1879, therefore, he was nominated for additional law judge, the people had come to have great faith in him, knowing that his comparative youth was set off by a soberness of mood and maturity of judgment far in advance of his years. He was chosen, as stated, in the three-handed contest that followed, and with the retirement of Judge Harding in 1879 became the president judge of the district. According to the census of 1880, Luzerne is, excluding Philadelphia, the third largest county in the state, the other two being Allegheny and Lancaster. Owing to the greater rapidity of growth in mining than in agricultural communities, Luzerne is to-day, in all probability, the next largest after Allegheny. Its present population of probably one hundred and sixty thousand souls, the mixed nationalities of which that population is made up, and the vast mining and other property interests located within its borders give its courts and judicial proceedings an importance which reaches out beyond its limits, and is, relatively to those of its sister counties, very great. In no county are questions of greater variety likely to arise for judicial abitra-

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ment, and in few, if any, is there as frequent call for original authoritative determination of the meaning of the unwritten and statutory law. The responsibilities here involved are assuredly a safe test of the capacity of the man, or men, upon whose shoulders they are foisted. Judge Rice has acquitted himself of them with remarkable success, displaying a legal acumen and nicety of logical discrimination, the best proof of the sufficiency of which is the frequency with which it has found endorsement in the higher tribunal; or rather, the unfrequency of the occasions upon which it has failed of securing such approval. Few, if any, of our local judiciary have a higher standing in the Supreme Court. Few, if any, are more frequently quoted; none are more uniformly patient and conscientious in their researches, or wiser or more courageous in determination. If it be Judge Rice's ambition to rise still higher in the scale of judicial promotion, there are a multitude of good reasons upon which to base the belief that it may be gratified. Personally Judge Rice is all that constitutes a good citizen and delightful companion. He takes as active an interest in all public affairs as is becoming in one in his position, and his counsel in matters outside the law is held in high esteem by friends and neighbors, and in the various associations, religious or otherwise, with which he is connected. His bearing is rather reserved, but that is a surface indication only. Beneath it is a generous and captivating affability. He has read extensively, and when "off duty" enjoys general conversation, which his native wit and acquired intelligence never fail to pleasantly enliven. He is a keen reader of men—a fact of which the writer has seen signal illustration upon more than one occasion—and that capacity, besides adding to his efficiency on the bench, enables him to always accommodate himself appropriately to the company in which he is placed. He is a studious man and loves his home, and his books and his family engage the greater part of the intervals between the sessions of court. The purity of his private life and the unbending integrity and superior achievements of his public career have enlisted the respect and admiration of all who know him.

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Benjamin Ford Dorrance was born in Kingston township, Luzerne county, Pennsylvania, August 14, 1846. He is a descendant of Rev. Samuel Dorrance, "a Scotch Presbyterian lately arrived from Ireland, a graduate of Glasgow university, licensed to preach in 1711 by the Presbytery of Dumbarton, and bringing with him satisfactory testimonials of his ministerial character and standing from several associations in Scotland and Ireland."—*History of Windham County, Conn., 248.* The first account we have of the Dorrance family in America tells us that on April 17, 1723, the people of Voluntown, Conn., gave Rev. Samuel Dorrance a call to preach the gospel, at a salary of "£60 per year for the present, and £50 in such species suitable to promote his building and settling." On the same day a number of persons, "as a special token of their love and goodness," presented Mr. Dorrance with "five thousand shingles, three pounds money in shingle nails, five pounds in work, three pounds in boards and plank, two hundred clapboards, breaking up two acres of land, a cow and calf," etc. This Voluntown church was the first, and long the only, Presbyterian church in Connecticut. Letters were sent to the ministers in New London, Canterbury, Preston, Plainfield, and Killingly inviting them to join in the ordination of Mr. Dorrance, October 23, 1723. Up to this date the proceedings of town and people had been marked by entire harmony and unanimity, but on the day appointed for ordination a violent opposition was manifested. Various conflicting elements were working among the people. A large number of new inhabitants had arrived during the summer. Mr. Dorrance had been accompanied to New England by several families of Scotch-Irish Presbyterians who had followed him to Voluntown and settled there, buying lands in various localities. The advent of these foreigners, though men of good position and excellent character, was looked upon with great suspicion by the older settlers. The adoption of the Westminster Confession by the new church caused immediate outbreak and rebellion. The council met according to appointment—the Revs. Lord, Coit, Estabrook, and Fisk—and were proceeding regularly to business, when to their amazement a

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number of people appeared, determined to obstruct the ordination of Mr. Dorrance, and "in a riotous, disorderly, and unchristian way" presented the subjoined remonstrance:

"We, whose names are underwritten, do agree that one of our New England people may be settled in Voluntown to preach the gospel to us, and will oblige ourselves to pay him yearly, and will be satisfied, honored gentlemen, that you choose one for us to prevent unwholesome inhabitants, for we are afraid popery and heresy will be brought into the land; therefore we protest against settling Mr. Dorrance, because he is a stranger, and we are informed he came out of Ireland, and we do observe that since he has been in town that the Irish do flock into town, and we are informed that the Irish are not wholesome inhabitants; and upon this account we are against settling Mr. Dorrance, for we are not such persons as you take us to be, but desire the gospel to be preached by one of our own, and not by a stranger, for we cannot receive any benefit for neither soul nor body, and we would pray him to withdraw himself from us."

The council passed the day in hearing the opposers, and the second day achieved the following result: "We esteem the objections offered by the defending party against Mr. Dorrance's ordination invalid. We judge the people's call of Mr. Dorrance not sufficient," etc. On December 23, 1723, he was duly ordained. Beside him his brothers George and John, and John jun., were then found on the church rolls. Time soon wrought a change, so that the Rev. Mr. Dorrance was no longer "a stranger" among his people. He is found in the ministry at Voluntown in the year 1760, and at that time his salary had risen to the respectable sum of £300. He died November 12, 1775, at the age of ninety years. Those of the Dorrance family who came to Wyoming were John and George, sons of Rev. Samuel Dorrance. John was never married. He was the defendant in the celebrated test case for the title to lands at Wyoming, between the Pennamites and Yankees, known as Van Horne's lessee *v.* Dorrance, reported in 2 Dallas, 304, on which ex-Governor Hoyt has published a very elaborate and learned brief, reviewing, not only all the questions at issue between the parties, but their conduct during its progress. George Dorrance was born March 4, 1736, and was slain July 4, 1778. He was a lieutenant-colonel of the militia at Wyoming. In 1777 he led a

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scouting party up the river consisting of eighty men, to disperse or capture a settlement of Indians and Tories on the Wyalusing. Having accomplished the object, an unseasonable snow storm detained them beyond their expected time, and they suffered extremely from cold and hunger. By Colonel Dorrance's order rafts were made of the huts from which the enemy had been driven, and the whole of the company were safely wafted down to Forty Fort. On July 3, 1778, he went out of Forty Fort with that little band of heroes who thought to drive their insolent invaders from the valley. He commanded the left wing under Colonel Denison. His coolness in the midst of the fight when one of his men gave way, is shown by the firm command, instantly obeyed, "Stand up to your work, sir." He was severely wounded on the field of battle, while gallantly riding along the broken lines and laboring to restore the men to order and position. He was the only one of the wounded who was saved from death on the field or at the hellish orgies of the succeeding night. His feeble condition on the next day making him a burden to his captors, they slew him and divided his garments and arms among them. He was twice married. By his first wife he had two daughters. By his second wife he had three sons. Robert, who served in the independent company of Captain Ransom until the close of the war; afterwards in the western army, and was in the battle resulting in St. Clair's defeat, where he was killed, November 4, 1791. Gersham, who went back to his old home at Voluntown. Benjamin, who was born in 1767. Elizabeth, the second wife of Colonel Dorrance, married Ensign Jabez Fish, who was in the battle at Wyoming and escaped. Benjamin Dorrance was one of the most popular men of his day. In 1801 he was elected sheriff of Luzerne county. Soon after his term expired he was elected one of the commissioners of the county. He was a member of the legislature of Pennsylvania during the years 1808, 1809, 1810, 1812, 1814, 1819, 1820, and 1830. He was also the first president of the Wyoming bank, of this city. An obituary notice of Mr. Dorrance is here appended: "Colonel Benjamin Dorrance is no more. The place on earth that once knew him shall know him no more forever. On Thursday, August 24, 1837, while conversing cheerfully at his own house

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with a member of his family, he was seized with an apoplectic fit; he fell, and in a moment the vital spark was extinct. There are few, indeed, whose departure could have occasioned so deep a void, so wide a chasm in society. Universally known, everywhere respected and beloved, not by his relations alone, but by a numerous circle of friends, the bereavement is deeply felt. * * Colonel Dorrance was about seventy years old. He was born in Plainfield, state of Connecticut, in 1767, and came to Wyoming when quite a lad, with his father's family. In the Indian battle his father, Lieutenant-colonel George Dorrance, who was third in command, standing next to Butler and Denison, was slain. The day after when Forty Fort was surrendered, the subject of this notice was in the fortification, and used to describe with graphic clearness the entry of the British at one gate and the Indians at the other. Colonel Dorrance was a man of sterling good sense, remarkably pleasing in his manners, eminently hospitable, liberal and benevolent. * * * No man enjoyed society and the good things of this life with a higher relish than Colonel Dorrance, yet using them as subservient, and never allowing pleasure to mislead from the moral path, or to interfere with health or business. If asked who, for the last half century, has been the happiest man in the county, the county, I think, would say Colonel Dorrance. Yet he was careful, active, intelligent, and shrewd in business—a strict economist—and was abundantly blessed with this world's goods. In fine, Colonel Dorrance was an extraordinary man; mingling in his character the pleasant and the useful, liberal expenditures with fair and steady acquisition, sweetening labor with enjoyment, and heightening pleasure by a prompt and energetic devotion to business; and throughout life popular without envy, without an enemy, and never yielding his independence or integrity. Honor and affection to his memory." The wife of Colonel Benjamin Dorrance was Nancy Ann, daughter of Jedediah and Martha (*Clark*) Buckingham. Mr. Buckingham was a descendant of Thomas Buckingham, a Puritan settler and ancestor of all of the American Buckinghams, and was one of the company to which Eaton and Hopkins, two London merchants, and the two ministers, Davenport and Prudden, belonged. They sailed from London in the two ships the

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Hector and the ———. Thomas Nash, the ancestor of Charles Dorrance Foster, was in the same company. They arrived at Boston June 26, 1637, and on March 30, 1638, the company sailed for Quinnipack, now New Haven. Here we find the name of Thomas Buckingham under the head of "Names of Planters and Division of Land according to Estate and Heads in Families," from which it appears that he had four persons in his family. Thomas Buckingham removed to Milford in the autumn of 1639. He was one of the company, of which Peter Prudden was the pastor, who first settled that town. The church was organized at New Haven August 22, 1639, and Thomas Buckingham was one of the seven pillars of which it was composed. Rev. Thomas Buckingham was the youngest child of Thomas Buckingham, of Milford, the Puritan settler, and was born in 1646. He was married in Hartford and preached in Wethersfield in 1664, when but eighteen years of age. He was one of the founders and fellows of Yale college from 1700 to his decease, and a strong supporter of its interests. He evidently held a high rank among the clergymen of the time, and was one of the leaders in all efforts for the prosperity and extension of the church, and was one of the moderators of that famous synod which convened at Saybrook and formed the platform for the government of the churches, in 1708. He was ordained and installed pastor of the church in Saybrook in 1670, and continued in that relation until his death, April 1, 1709.

Thomas Buckingham, son of Rev. Thomas and Hester (*Hosmer*) Buckingham, was born September 29, 1670. He was a prominent man in town affairs, being appointed to many important offices of trust, and was also a prominent member of the church and a landholder in Lebanon. He died September 12, 1739. Thomas Buckingham, son of Thomas and Margaret (*Griswold*) Buckingham, was born January 24, 1693. He was a sea-faring man, and died December 13, 1760. Jedediah Buckingham, son of Thomas and Mary (*Parker*) Buckingham, was born January 20, 1727, at Saybrook. He settled in Columbia, where he died July 9, 1809. He married Martha Clark, of Lebanon, Conn. Hon William A. Buckingham, for eight years governor of Connecticut, and more recently a senator of the

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United States from Connecticut, is of the same family. Benjamin Dorrance left two sons surviving him. Rev. John Dorrance, who was born February 28, 1800, and died April 1, 1861. He was pastor of the Franklin street Presbyterian church, of Wilkes-Barre, Pa., where he labored with marked success for twenty-eight years. His daughter, Emily Augusta, is the wife of Alexander Farnham, of the Luzerne county bar. Another daughter, Margaret Stella, is the wife of George Murray Reynolds, of this city. Colonel Charles Dorrance, the other son of Benjamin Dorrance, was born January 4, 1805, and has lived on the old homestead farm of the family, which has lost none of its attractiveness or value, but which has been largely added to in extent, taste, and value since it passed into his hands. His home has ever been the abode of a large and generous hospitality, dispensed with all the grace and dignity befitting his surroundings. He has ever been a farmer, and, commencing his active business life with a liberal education, has kept up that intercourse with his fellow men and given that attention to the affairs of the day which bring out his genial and warm-hearted nature and add a charm to his society. The Dorrance farm has long been the model farm of the valley, and the colonel, farming for pleasure as well as profit, has succeeded in acquiring both results from his labors. He has never sought official position, except, possibly, that of captain of the Wyoming volunteers, from which he rose through the various grades to the rank of colonel, which title he has enjoyed for forty years. It was a youthful fancy that led him into military life, awakened by fireside tales of the early days of Wyoming, in which were recounted the gallant deeds of his ancestor. Yet the colonel's life has not been barren of official honors. When the Luzerne County Agricultural Society was organized in 1858, by unanimous choice he was elected president of the society, which position he filled with honor and dignity for ten years, and its success during that period was largely due to his uniform courtesy and his superior skill of disposing of knotty subjects, as well as in the management of the business affairs of the society. He was, in conjunction with the late A. C. Laning, appointed by the late Judge Conyngham, as his last official act, a commissioner of the Luzerne county prison, which

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position he held for a succession of years. He was chosen and acted as president of the board during his entire official term. When the patriotic citizens met to effect an organization for the proper commemoration of the one hundredth anniversary of the battle and massacre of Wyoming, Colonel Dorrance was, without a dissenting voice or thought, made the president of that organization. How well, and with what grace and liberality he performed the duties of that position, and how largely his means and his hospitalities were taxed to meet the requirements of the great occasion, is attested by all. It is a singular coincidence that the father should have been the first president of the Wyoming bank, and that after the lapse of more than a half a century his son should now hold the same trust. Time and space will not permit us to name all the positions of trust and honor he has been called upon to fill in an active life of three score years. Whatever they may have been, he has filled them all with honesty and fidelity, and now, at the age of nearly four score years, he enjoys the reputation of an honest and honorable man, in whom dwell all the sweet and tender elements of humanity, which, as occasion has offered, have welled out to the comforting and blessing of all who have come in contact with him. Blest in his family, blest in his store, and blest in all his surroundings, long may he live to enjoy the blessings of a well spent life, which has diffused its sweet savor on all who have enjoyed the pleasure of kindly intercourse with him. Colonel Dorrance married August 28, 1845, Susan E., daughter of the late James Ford, of Lawrenceville, Pa. He was a native of Perth Amboy, N. J., and came to Pennsylvania about the year 1800. He settled in Lawrenceville, and was a member of the legislature of Pennsylvania from Tioga county for two years, and a representative in congress from his district from 1829 to 1833. His life was honorably interwoven with the history of his state. He died at Lawrenceville in August, 1859, aged seventy-six years. The wife of Mr. Ford was Maria Lindsley, a daughter of Judge Eleazer Lindsley, of Lindsley, Steuben county, N. Y. He was a son of Colonel Eleazer Lindsley, a hero in the war of the revolution, who left his home near Morristown, N. J., after the war and purchased a township of six miles square in Steuben county, N. Y., which

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was named after him. He was the first representative in the legislature from Steuben county. He removed there with his family, but lived but a short time, and his was the first death in Lindsley. He was buried with a ring upon his finger, the gift of his personal friend in the revolution, General La Fayette. Colonel Dorrance has a family of five children living, four sons and a daughter, Annie Buckingham, who is the wife of Sheldon Reynolds, of the Luzerne county bar. Benjamin Ford Dorrance, eldest son of Colonel Charles Dorrance, was educated at the Luzerne institute, at Wyoming, Pa., and at Princeton college, graduating in the class of 1868. He studied law with Andrew T. McClintock, and was admitted to the bar of Luzerne county August 20, 1870. Mr. Dorrance is a democrat in politics and a Presbyterian in religious belief. He married May 22, 1872, Ruth Woodhull Strong, a daughter of Schuyler Strong, a prominent lawyer and leading citizen of the state of New York. Mr. and Mrs. Dorrance have a family of three children, Anne, Frances, and Ruth Dorrance. Mr. Strong was a graduate of Union college, at Schenectady, while under the presidency of Dr. Nott, and from the time of his admission to the bar took a position second to none in his profession. He practiced in the courts of New York, Pennsylvania, Illinois, and Virginia. On August 20, 1823, he was appointed quartermaster of the Ninety-Sixth regiment of infantry of the state of New York. He died September 13, 1845, while yet a young man, at Springfield, Ill.

The Strong family originated in Shropshire, England. One of the family married an heiress of Griffith, of the county of Caernarvon, Wales. Of this line was Richard Strong, born at Caernarvon in 1561. In the year 1590 he moved to Taunton, Somersetshire, England, and died there in 1613. He left a son, John, aged eight years, and a daughter, Eleanor. John, born at Taunton in 1605, moved to Plymouth, and thence, by the ship Mary and John, in 1629, for New England, which place he reached May 30, 1630. He assisted in founding the town of Dorchester, Mass. In 1638 he removed to Taunton, Mass., remaining there until 1645. He was a deputy thence to the general court in 1641, 1643, and 1644, this being the legislative body of the Plymouth colony. He moved in 1645 to Windsor, Conn.,

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and thence in 1659 to Northampton, Mass, of which he was one of the first and most active founders, as he had previously been of Dorchester, Hingham, Taunton, and Windsor. He was chosen and ordained ruling elder of the church at Northampton in 1663. He married in 1630 his second wife—his first having died as soon as she had arrived in America—Abigail Ford, of Dorchester, Mass., daughter of Thomas Ford, who also emigrated in the Mary and John. He lived with his second wife fifty-eight years, and died April 14, 1699, aged ninety-four years, leaving eighteen children. Mrs. Strong died in 1688, aged eighty years. Thomas Ford, her father, was a man of prominence in the early colony, and was a deputy to the general court from 1637 to 1640. The descendants of Elder John Strong have numbered over thirty thousand persons, among these are four hundred college graduates, over thirty college professors, as many authors, four governors, over thirty judges, over thirty members of the United States congress, sixty officers of the revolutionary army, and one hundred members of state legislatures. Among these are Governors Strong, of Massachusetts, Haight, of California, and Hunt, of New York; ex-Justice William Strong, of the United States Supreme Court; Captain Nathan Hale and General Elijah Chapman, of the revolutionary army; Professors Dana, Whitney, and Goodrich, of Yale; Newberry and Dwight, of Columbia; Robinson, of Union Theological seminary, etc. Rev. Horace E. Hayden, of this city, is descended from Elder John Strong in two lines, through his son, Lieutenant Return Strong, and his daughter, Elizabeth Strong. Theodore Strong, of Pittston, brother of Judge Strong, is also a descendant of John Strong. Schuyler Strong was the son of Selah and Ruth (*Woodhull*) Strong, who was the son of Major Nathaniel and Amy (*Brewster*) Strong, who was the son of Selah and Hannah (*Woodhull*) Strong, who was the son of Selah and Abigail (*Terry*) Strong, who was the son of Thomas and Rachel (*Holton*) Strong, who was the son of Thomas and Mary (*Hewett*) Strong, and who was the son of Elder John and Abigail (*Ford*) Strong, the first settler.

The mother of Mrs. Dorrance was Frances Cruger Strong. She was the daughter of General Daniel Cruger, a distinguished and prominent citizen of Steuben county, New York. The an-

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cestors of Mr. Cruger were Huguenots, who, at the massacre of St. Bartholomew, escaped from France. A portion of them reached England in safety, while others fled to Germany and found a home at Altonia, in the duchy of Holstein; and others fled to Denmark. That branch of the family from which Mr. Cruger descended settled in Holstein. His father emigrated to America in 1768 and settled in Sunbury, Pa., where, on December 22, 1780, Daniel was born. Soon after the birth of his son the elder Cruger removed to Newtown (now Elmira), N. Y., and engaged in mercantile business. When a young man young Cruger went to Albany, N. Y., and learnt the art of printing. After his apprenticeship was out he settled at Owego, N. Y. and established the *Owego Democrat*, which was the first journal ever published in that part of the state. He edited and published this paper until 1804, when he parted with his interest in the concern. His father having previously settled at Bath, N. Y., young Cruger now made that village his home. For a time he pursued his occupation there, but the business proving injurious to his health he renounced it and entered the office of General S. S. Haight as a student at law, with whom he continued until admitted to the bar, when he became a partner of the general. His ability as a lawyer soon exhibited itself, and he became, within a few years after the commencement of his practice, one of the leading lawyers at the Steuben county bar. He continued to practice with increasing success until the year 1812, when the war with England broke out. General Cruger enlisted and accepted a position on the staff of General McClure, with the rank of major, and occupied a prominent position in the field during the war. He was a member of the legislature of the state of New York during the years 1813, 1814, and 1815, and during the last named year he was elected speaker of the assembly over Jacob R. Van Rensselaer, the federal candidate. In 1816 he was elected to congress from what was then the Twentieth congressional district, and during his term he served with credit as a member of the judiciary committee, and made several speeches on the floor of the house which won for him the respect and consideration of his fellow members. He was also district attorney for the Seventh district of the state of New York, consisting of the

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counties of Steuben, Allegany, and Tioga. About the year 1828 General Cruger removed to Syracuse, and in 1833 he removed to Wheeling, W. Va. Early in June, 1843, while attending a meeting of the directors of the Wheeling bank, he was stricken down with apoplexy, dying within a few moments after the attack.

Mr. Dorrance, as will be seen, had the advantage of an excellent preliminary training, an education finished at one of our best universities, and a tutor in the mysteries of the law who has gone to the very forefront of his profession, and when admitted was fully equipped, therefore, for a successful career at the bar. Coming from such an ancestry he necessarily inherited, also, many of the qualities which fit men for a conquering career in almost any vocation. For a time after hanging out his shingle he sought clients and labored zealously and with much success to advance their causes. His eyesight early began to fail him, however, and not being dependant upon the profession for a livelihood—possessing, in fact, like his father, a natural inclining to agriculture, he has of late years devoted his time principally to that pursuit, with results gratifying to his pride as well as helpful to his exchequer. The Dorrances farm on advanced scientific principles, giving, among other things, much attention to blooded stock. The subject of this sketch is already the possessor of a comfortable competence, and some day, in the ordinary course, will be a very rich man. It is pleasant to know, therefore, that he is one of the not too numerous class who are disposed and know how to utilize such gifts unselfishly, and with an eye, not only to their own good, but to the good of the communities in which they respectively abide. He is of generous instincts and companionable, one who is like to gather around him an abiding circle of deserved and warm friends. He lives comfortably but not ostentatiously, is fond of books and keeps himself posted upon current events, as to which his opinion is valuable as being that of a liberal-minded, clear-headed man of the world.

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Court of Common Pleas of Luzerne County.

MORRIS *v.* SICKLER.

1. Payment of the accrued costs is a condition precedent to the right of appeal from an award of arbitrators.
2. An attorney fee is no part of the accrued costs which must be paid on an appeal.

Rule to strike off appeal from award of arbitrators.

The opinion of the court was delivered August 1, 1884, by

RICE, P. J.—Payment of the accrued costs is a condition precedent to the right of appeal from an award of arbitrators. But it was held by this court in Schooley *v.* Casterline, 13 L. Leg. Reg. 344, 3 Kulp, 150, following the decision of Judge Pearson in McCullo *v.* Opple, 1 Pears. Dec. 150, s. c. 3 Luz. Leg. Obs. 87, that an attorney fee is not taxable on an award until the time for appeal has elapsed and it has become a final judgment. The same was held by Judge Livingstone in the case of First National Bank of Mount Joy *v.* Greider, 5 L. Bar. 1. This being the case, the attorney fee was no part of the *accrued* costs, which must be paid on appeal. Its taxation by the prothonotary must be held to have been conditioned upon the award becoming a final judgment, by reason of the failure of the plaintiff to appeal within twenty days. In the case cited we refused to strike off the appeal, and we see no sufficient reason for departing from that precedent. It was conceded on the argument that the other costs had been paid.

This rule is therefore discharged.

In Rastell's Entries, 26, there is an amusing precedent of a declaration in an action on a case against a barber for shaving the beard "inartificially": "R. S. nuper de N. attach. fuit ad respondendum H. B. de placito, quod cum idem R. ad barbam ipsius H. bene et artificialiter cum novacula munda et salubri radere apud N. assumpsisset, predictus R. barbam ipsius H. cum quadam novacula immundi et insalubri tam negligenter et inartificialiter rasit, quod facies ipsius H. morbosa et scabiosa devenit ad damnum ipsius H. 40s. ut dicitur."

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NOTICE IS HEREBY GIVEN, THAT AN application will be made to one of the law judges of the Court of Common Pleas of Luzerne county, on Saturday the 1st day of November, 1884, at 10 o'clock A. M., under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, for the charter of an intended corporation, to be called the "King John Sobieski Guards," the character and object whereof is the mutual improvement and protection of its members, to nurse and assist in the maintenance of the sick, to bury the dead, and to care for the widows and orphans. The business of the intended corporation is to be carried on at Alden Station, in said county of Luzerne, and for this purpose to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements.

T. J. CHASE,
41-43 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Monday, the 20th day of October, A. D. 1884, at 10 o'clock A. M., under the Act of the General Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation of Certain Corporations," approved April 29,1874, and the supplements thereto, for the charter of an intended corporation to be called the "Wyoming District of Ancient Order of Foresters," the character and object of said corporation is benevolent; to commemorate the Ancient Order of Foresters, and specially to establish a District Court of such order in and for the county of Luzerne.

HINES & BELL,
40-42 Solicitors.

NOTICE IS HEREBY GIVEN, THAT OWEN Griffiths, Receiver in the case of Jenkins township v. Yatesville borough, in Equity No. 9, April term, 1879, filed his account September 24, 1879, and that the same will be confirmed November 10, 1884, unless exceptions are filed on or before that time.

J. M. NORRIS,
Q. A. GATES, Prothonotary.
Attorney. 39-41

SALE OF BONDS AND COUPONS.
There will be sold at public sale, at the office of the undersigned, at Pittston, Pa., on Monday, October 20, 1884, at 2 o'clock P. M., for the benefit of whom it may concern, six Bonds of the Lackawanna & Susquehanna Coal and Iron Co. (commonly known as the West Side Bonds), to wit: Bonds Nos. 622, 748, 749, 750, 751, and 752, each in the sum of $1000, with the coupon of June, 1879, and all subsequent coupons attached. Terms Cash.

GEO. S. FERRIS,
39-41 Attorney.

NOTICE OF AUDIT
Fritz et al. v. Eustice et al. I will distribute the proceeds of the real estate sale of the estate of Maria Fritz, deceased, at my office, on Wednesday, the 15th of October, 1884, at 10 o'clock A. M., at which time and place those interested must present their claims or be debarred from coming in on said fund.

S. J. STRAUSS,
38-41 Master in Chancery.

LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 117, January term, 1884. Libel in divorce a vincula matrimonii. Susan A. Snyder, by her next friend, A. Fischer, v. Hiram J. Snyder. To Hiram J. Snyder—Please take notice, that the court has granted a rule on you to show cause why a divorce avincula matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoena having failed on account of your absence. Returnable on Monday, October 20, A. D. 1884, at 10 o'clock A.M.

GEORGE K. POWELL,
41-42 Solicitor.

LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 546, May term, 1884. Libel in divorce a vincula matrimonii. Esther B Schofield, by her next friend, Henry Gilmore, v. George W. Schofield. To George W. Schofield—Please take notice, that the court has granted a rule on you to show cause why a divorce a vincula matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoena having failed on account of your absence. Returnable on Monday, October 20, A. D. 1884, at 10 o'clock A. M.

HENRY W. DUNNING,
41-42 Solicitor.

LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 209, January term, 1884. Libel in divorce a vin. cula matrimonii. Diannah Yocum, by her next friend, Elisha Culver, v. James Yocum. To James Yocum—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoenas having failed on account of your absence. Returnable on Monday, October 20, A. D. 1884, at 10 o'clock A. M.

M. E. WALKER,
41-42 Solicitor.

LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 176, January term, 1884. Libel in divore a vinculo matrimonii. Ann Thomas, by her next friend, Wm. D. Williams, v. John H. Thomas. To John H. Thomas—Please take notice, that the court has granted a rule on you to show cause why a divorce a vincula matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoena having failed on account of your absence. Returnable on Monday, October 27, A. D. 1884, at 10 o'clock A. M.

GEORGE W. SHONK,
41-42 Solicitor.

LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 28, May term, 1884. Libel in divorce a vincula matrimonii. Lizzie Straw, by her next friend and father, T. M. Casselberry, v. Edward Straw. The alias subpoena in the above case having been returned, "That the said Edward Straw cannot be found in Luzerne county." You, the said Edward Straw, respondent, are required to appear on Monday, November 17, A. D. 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
C. W. KLINE, Sheriff.
Attorney. 41-42

ESTATE OF CONRAD J. EICHLER, LATE of Hazleton, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

NICHOLAS EICHLER,
E. P. KISNER, Hazleton, Pa.
Attorney. 39-44

ESTATE OF DANIEL K. MEADS, LATE OF Wilkes-Barre, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

FRANCIS A. PHELPS,
E. P. & J. V. DARLING, Wilkes-Barre, Pa.
Attorneys. 40-45

WILLIAM S. McLEAN,
ATTORNEY AT LAW,
WILKES-BARRE, PA.

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Box 3661, New York.

AUDITOR'S NOTICE.
In the Common Pleas of Luzerne county. In Equity. No. 6, October term, 1876. Wm. N. Monies et al., Executors, v. A. D. King. The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county to examine the sixth partial account of George Bishop, Receiver of the late firm of Howell & King, and to ascertain what proportion of the fund now in his hands may be safely distributed, and to make distribution of the same, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, in Wilkes-Barre, on Friday, October 31st, 1884, at 10 o'clock A. M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

THOMAS H. ATHERTON,
41-44 Auditor.

ESTATE OF PETER STYRLING, LATE OF Pittston township, deceased.
Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BRIDGET STYRLING,
39-44 Pittston, Pa.

IN THE COURT OF QUARTER SESSIONS of Luzerne county. In Re Division of the borough of Edwardsville into three election districts. Notice is hereby given that the report of the Commissioners in the above stated case was filed with the Clerk of Court of Quarter Sessions on the 6th day of October, 1884, and confirmed *nisi*, and the same will be by said Clerk presented to the court for confirmation, and that said confirmation will be absolute, unless exceptions thereto be filed within twenty days from said date.

L. K. STRENG,
41-43 Clerk Q. S.

IN THE COURT OF QUARTER SESSIONS of Luzerne county. No. 168, June sessions, 1884. In Re Division of Sixth Election District in Hazle township into two election districts. Notice is hereby given, that the report of the Commissioners in the above stated case has been filed with the Clerk of the Court of Quarter Sessions, and was confirmed nisi by the court on the 15th day of September, 1884, and that said report will be confirmed absolutely by the court unless exceptions thereto be filed not later than the third day of the next term of said court.

L. K. STRENG,
39-41 Clerk Q. S.

IN THE COURT OF QUARTER SESSIONS of Luzerne county. No. 171, June sessions, 1884. In Re Additional Election District in Black Creek township. Notice is hereby given, that the report of the Commissioners in the above stated case has been filed with the Clerk of the Court of Quarter Sessions, and was confirmed nisi by the court on the 15th day of September, 1884, and that said report will be confirmed absolutely by the court unless exceptions thereto be filed not later than the third day of the next term of said court.

L. K. STRENG,
39-41 Clerk Q. S.

IN THE COURT OF QUARTER SESSIONS of Luzerne county. No. 160, June sessions, 1884. In Re Additional Election District in Foster township. Notice is hereby given, that the report of the Commissioners in the above stated case has been filed with the Clerk of the Court of Quarter Sessions, and was confirmed nisi by the court on the 18th day of September, 1884, and that said report will be confirmed absolutely by the court unless exceptions thereto be filed not later than the third day of the next term of said court.

L. K. STRENG,
39-41 Clerk Q. S.

ESTATE OF LYMAN KRESGE, LATE OF Bear Creek township, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

AMANDUS KRESGE,
E. P. & J. V. DARLING, Miner's Mills, Pa.
Attorneys. 40-45

ESTATE OF DANIEL S. BENNET, LATE OF Wilkes-Barre, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands, to present the same, without delay, to

MAGGIE M. BENNET,
F. W. WHEATON, Wilkes-Barre, Pa.
Attorney. 40-45

ESTATE OF JAMES B. HOPKINS, LATE OF Pittston township, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY HOPKINS,
36-41 Scranton, Pa.

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ESTATE OF ELEANOR B. BEAUMONT, deceased.

Notice is hereby given that letters testamentary in the said estate have been duly granted to the undersigned by the Register of Wills of the county of Lebanon, where the said testatrix resided at the time of her death, and that all persons indebted to the said estate will make payment thereof, and all persons having claims thereon, will present the same for payment to

EUGENE B. BEAUMONT,
Executor, Wilkes-Barre, Pa.
E. P. & J. V. DARLING,
41-46 Attorneys.

ESTATE OF HENRIETTA LUDWIG, LATE of Hazleton, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

C. W. KLINE,
36-41 Hazleton, Pa.

ESTATE OF HENRY HONEYWELL, LATE of Dallas township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES H. COOKE,
36-41 Dallas, Pa.

ESTATE OF ELIZABETH B. DAMON, LATE of Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE S. FERRIS,
38-43 Pittston, Pa.

ESTATE OF ANN CRANSTON, LATE OF Pleasant Valley, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

JAMES CRANSTON,
DAVID CRANSTON,
41-46 Marr, Pa.

ESTATE OF DANIEL SCURRY, LATE OF Carbondale, Lackawanna county. deceased.

Letters of administration *cum testamento annexo, de bonis non* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

DANIEL SCURRY,
J. E. BURR, Carbondale, Pa.
41-46 Attorney.

ESTATE OF GEORGE ENGLER, LATE OF Dorrance township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELDRIGE ENGLER,
C. D. FOSTER, Wilkes-Barre. Pa.
41-46 Attorney.

ESTATE OF JAMES LOMISON, LATE OF Salem township, deceased.

Letters of administration *cum testamento annexo, de bonis non* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HIRAM ECKROTH,
41-46 Mifflinville, Pa.

ESTATE OF J. B. DOW, LATE OF WILKES-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WILLIAM B. DOW,
37-42 Wilkes-Barre, Pa.

ESTATE OF HENRY BROWN, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

R. J. FLICK,
36-41 Wilkes-Barre, Pa.

ESTATE OF MARTHA A. HUTCHISON, late of Plymouth, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

IRA D. PRINGLE,
37-42 Plymouth, Pa.

ESTATE OF CONRAD SCHURCHARD, LATE of Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES ERMICH,
40-45 Hazleton, Pa.

W. S. PARSONS,
ALDERMAN,
WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, OCTOBER 17, 1884. NO. 42.

Supreme Court of Pennsylvania.

DAVIS *et al. v.* CLARK.

1. Laws which do not apply to the whole state are special or local laws, and the exemption of one county from their operation is just as effectual in giving to them the character of special or local laws as the exemption of one-half or two-thirds of the state.
2. The purpose of the act of June 28, 1879, P. L. 182, is to extend the benefits of the Mechanics' Lien Law to additional subjects and in favor of another kind of labor; it is therefore subject to the prohibition in the constitution, namely, act III., section 7th, which reads as follows, to wit: "The general assembly shall not pass any local or special law authorizing the creation, extension, or impairing of liens."
3. The said act offends against the prohibition above quoted, and is, therefore, unconstitutional.

The opinion of the court was delivered October 6, 1884, by

MERCUR, C. J.—The claim of lien in this case arises on the act of June 28, 1879, P. L. 182. It was filed under the provisions of the 2d section thereof. That declares "all persons performing labor for or about the construction or erection of any engine, engine house, derrick, tank, buildings, machinery, wood or iron improvements constructed or erected upon any lease-hold, held either by written or verbal lease, or for boring, drilling, or mining on any lease or lot as aforesaid for the development or improvement of the same, whether such labor is or may be done by the day, month, or year, or by contract for the tenant or tenants, lessee or lessees, of such lot or lease, or parcel of land, or for their use or benefit shall have a lien upon such engine or engines, engine house, derrick, tank, building, machinery, wood or iron improvements, oil wells and fixtures on said lot or lease-hold of ground, and upon such lot or lease-hold itself, for the price and value of such work and labor; provided, that the lien hereby given shall extend only as to such lease or lot, to the interest of the lessee or lessees, tenant or tenants, therein." By section 6th

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of the act it is further "provided that the provisions of this act shall not apply to counties having a population of over two hundred thousand inhabitants." Act III., section 7th of the constitution "declares the general assembly shall not pass any local or special law authorizing the creation, extension, or impairing of liens." The main contention is, whether the act of 1879 is in conflict with this clause of the constitution? It shows on its face that it was not intended to apply, and does not apply, to the whole state. It assumes what was a well-known fact, that some of the counties had each a population greater than two hundred thousand. In the counties of Philadelphia and Allegheny that greater population had been legally found by the census of 1870. The constantly increasing population, verified by the census of 1880, sufficiently shows that at the passage of the act the one had a population of eight hundred thousand, and the other of over three hundred and forty thousand.

It was not then a general act, applicable to every part of the commonwealth. It did apply to a great number of counties, but there is no dividing line between a local and a general statute. It must be either the one or the other. If it apply to the whole state, it is general; if to a part only, it is local; as a legal principle it is as effectually local when it applies to sixty-five counties out of the sixty-seven, as if it applied to one county only. The exclusion of a single county from the operation of the act makes it local. By the terms of this act the laborers in the two most populous counties of the state, although they perform the same kind of labor, are as effectually debarred from its operation as if those counties were designated by name or were outside of the boundaries of the state. It gives to laborers in some counties rights, powers, and privileges which it denies to the same class of laborers, performing the same kind of labor, in other counties. It is not only local and special, but odious in its discrimination. It is in most clear and palpable violation of the constitution, which expressly withholds from the legislature all power to create or extend a lien by a local and special law. The difficulty here is not that of classification only within reasonable limits, and for some purposes classification is allowable. It has been sustained on the basis of population of counties,

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on the assumption that those having a small population may ultimately have one much larger. Here the larger are excluded. We cannot assume that their population will ever be reduced to less than the number named; they are, therefore, practically and permanently excluded by the intent and purpose of this act, which is special in its terms and local in its effect.

It was contended on the argument that the validity of this act was affirmed in Wilson *v.* Newcomb, 4 Out. 547. An examination of that case shows that no question as to its constitutionality was there presented or considered. The only question raised or decided was whether the language of the act conferred a lien for the kind of work described in the claim filed.

To sustain this special act would open the door to local legislation on all the numerous subjects expressly forbidden by the section of the constitution cited. The conclusion at which we have arrived makes it unnecessary to consider the other questions argued or refer to the authorities relating thereto.

Judgment reversed, and judgment is entered in favor of the plaintiff in error for costs, according to the case stated.

Bennett and Nichols, for plaintiff.

W. H. Hines, *contra.*

Court of Common Pleas of Luzerne County.

WHITAKER *v.* PECK.

Where a purchaser at a sheriff's sale fails to comply with his bid, and the difference of the bid and what the property brought at a subsequent sale is recovered at the suit of the sheriff, the counsel conducting the litigation for the sheriff are entitled to be paid their reasonable fees out of the fund recovered, in the same manner and to the same extent as the counsel of other trustees.

The opinion of the court was delivered February 11, 1884, by

WOODWARD, J.—We are now asked to appoint an auditor to pass upon the exceptions filed to the account of the trustee, and to report distribution of the funds in his hands.

The fund in court was raised by a suit against J. W. Peck, to recover damages resulting from his failure to comply with a bid made by him, at the time of the sheriff's sale of the real estate of Thomas Trine.

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It is claimed by the defendant, Peck, and not denied by any party in interest, that he is now the legal owner of all the judgments and incumbrances against Trine which can share in the distribution of the fund. There is, therefore, no necessity for an auditor to report distribution.

Nor are the other exceptions of such a character as to require the report of an auditor, to inform either the mind or the conscience of the court. They have reference exclusively to the allowance by the trustee, of certain professional fees charged by counsel for conducting the litigation out of which the fund has grown. We consider ourselves as well fitted to pass upon these exceptions, under the circumstances of this case, as an auditor would be; and moreover, by so doing, we shall save to the party owning the incumbrances an additional charge upon the fund, of an auditor's fee.

It is admitted that the fees charged by two of the counsel engaged in the case are not exorbitant or unreasonable, but it is claimed that they are not such expenses as should be allowed out of the fund.

The rule on this question is laid down in Hill on Trustees, section 570, pages 851, 852, as follows: "If necessary expenses are incurred in the execution of a trust, or the performance of duties thrown on a party, and arising out of the situation, such trustees are entitled, without any express provision for that purpose, to make the payments required to meet those expenses out of the funds in their hands belonging to the trust." See also section 565, page 845.

Without going into a full history of this case, it is safe to say that it was one calling for professional aid, and that, without this aid, the money could not have been realized by the trustee. The litigation was prolonged and vigorous, and called for professional learning as well as skill. We are of the opinion that the compensation of the counsel should come out of the fund.

The motion for the appointment of an auditor is denied.

It is further ordered that the exception filed by T. R. Martin, Esq., to the account of the trustee be sustained, and that the fee of the said Martin, be fixed at one hundred dollars.

The other exceptions to the account of the trustee are overruled.

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COMMON PLEAS TRIAL LIST—NOVEMBER TERM, 1884.

FIRST WEEK—NOVEMBER 17, 1884.

NO.	PL'FFS' ATT'YS.	PLAINTIFFS.	DEFENDANTS.	DEF'TS' ATT'YS.	NO.	TERM.	YR.	ACTION.	PLEA.
1	J. L. L.	John Martin	Borough of Parsons	Powell	460	Jan.	1884	Appeal	Nil debit, payment with leave, &c.
2	J. T. L.	C. J. Von Maur	C. K. Campbell	Ferris	494	May	1884	Appeal	Nil debit, payment with leave, setoff.
3	O'Neill	James Keys	Waddle & Co	B. & W.	601	May	1884	Appeal	Non ass., pay't, pay't with leave, &c.
4	Shonk	Anna Reynolds	Simon Reynolds	Ricketts	10	June	1884	Sheriff's inter	Usual plea.
5	E. A. L.	Joseph Najuszwski	Michael Wolungewicz	F.	677	Oct.	1884	Sheriff's inter	Usual plea.
6	B. & N., F., McL	E. T. Steele & Co., et al	S. P. Knoll	J. G. M., J. L.	489	May	1884	Feigned issue	
7	H. & D.	J. D. Cooper et ux., et al	Borough of Kingston	Darte	407	April	1875	Issue	Not guilty.
8	J. L.	Thomas Gaffey	Patrick McGrath	E. A. L.	418	June	1880	Assumpsit	Non ass., p. w. l. &c., setoff, s. of l.
9	Harding, McG., W	M. A. Thompson, et al.	L. V. R. R. Co	Darlings	22	May	1881	Case	Not guilty.
10	Harding, McG	G. M. Rickart, et ux	Rickart & Hart	Ferris, Farnham.	119	Sept	1881	Debt	Nil debit, payment with leave, &c.
11	O'Neill	William Warne, et ux	Borough of Nanticoke	Opp	504	Sept	1881	Case	Not guilty.
12	Ricketts	Edward Hefferan	J. F. Donohue	J. T. L.	296	Nov	1881	Case	Not guilty.
13	O'Neill	Lewisburg National B'k	J. A. Brodhead	Harding, McG	294	Jan.	1882	Assumpsit	Non ass., pay't w. leave, setoff, &c.
14	Gates, E. D. N.	Ant'ny Benscoter, dec'd	Jasper Winans	Osborne	44	Feb	1882	Ejectment	Not guilty.
15	Hahn	J. S. Sickler	Patrick Cannon	J. L. L.	396	May	1882	D. S. B.	Nil debit, payment with leave, &c.
16	Derr, Farnham	Use of D. P. Ayars	Contin'l Ins. Co. of N.Y	McGahren	340	Oct.	1882	Assumpsit	Non assumpsit, pay't with leave, &c.
17	Brundage	Joseph Rape, et ux	John Smith, et al	Harding, McG	548	Oct.	1882	Ejectment	Not guilty.
18	Martin, McC	W. R. Barnes	C. W. Ruggles	Shonk, Payne	806	Oct.	1882	Case	Not guilty.
19	Derr, Farnham	Use of D. P. Ayars	Continental Ins Co	McGahren	820	Oct.	1882	Appeal	Non assumpsit, pay't with leave, &c.
20	Derr, Farnham	Use of D. P. Ayars	Continental Ins. Co	McGahren	822	Oct.	1882	Appeal	Non assumpsit, pay't with leave, &c.
21	Hakes	Christopher Eypher	Francis Hoover	Nichols	200	Jan.	1882	Ejectment	Not guilty.
22	J. T. L.	Patrick Gibbons, et ux	Twp. of Kingston, et al.	Gates, Shonk	55	Feb	1883	Case	Not guilty.
23	J. T. L.	M. D. May	C. M. Driggs, et al	Halsey	130	March	1883	Appeal	Non assumpsit.
24	Gates	Anna Walter	Frederick Walter	Hahn	239	May	1883	Issue in divorce	
25	J. L. L.	Annie Clarke, et al	Martin Clarke	J. T. L.	326	Nov	1883	Ejectment	Not guilty.
26	O'Neill	Lazarus Moyer	Arthur Featherstone	Hines	401	Jan.	1884	Appeal	Non assumpsit, pay't with leave, &c.
27	B. & L.	George Dressel, dec'd	J. W. Hollenback, et al	B. & W.	55	March	1884	Ejectment	Not guilty.

SECOND WEEK—NOVEMBER 24, 1884.

1	Hahn	Goepp & Sterne	Joseph Slocum	W. & R., L. H.	586	Feb	1871	Debt	Nil debit.
2	Cannon	Miner Neely	Joseph Neely	P. D. & F., Gates	1031	Sept	1879	Appeal	Payment.
3	R. H. & B., Farn	Margaret Dannon	James O'Donnell	J. T. L.	511	Sept	1880	Appeal	Not guilty.
4	D & A	Pardee & Markle	Thomas John, dec'd	Darlings	84	June	1881	Case	Non assumpsit, pay't with leave, &c.
5	Harding, McG	James S. Slocum	Pa & N.Y Can.&R.R.Co	Palmer, Darlings	17	Nov	1881	Issue	Not guilty.
6	Farnham	Lizzie M. Koon	Lehigh Valley R.R. Co.	Darlings	103	Nov	1881	Case	Not guilty.
7	E. A. L.	W. H. Sorber	Simon P. Croop, et al	Osborne	227	Jan.	1882	Ejectment	Not guilty.
8	Harding, McG	L. D. Shoemaker	B. M. Everhart, et al	Farnham	23	Feb	1882	Partition	
9	McCartney	Henry Cohen	C. S. Stark, dec'd	Darlings, Rich'ds	81	Feb	1882	Assumpsit	Not guilty, pay't with l., &c., setoff.
10	Gates	F. A. Beamish	Central Express Co	Harding, McG	115	Oct.	1882	Case	Not guilty.
11	Mosier	Seitz & Kleinhart	Xavier Wernet	Harding	356	Oct.	1882	Appeal	Non assumpsit.
12	Ryman	A. M. Herod & Co	Frauenthal Brothers	T.	748	Oct.	1882	Debt	Nil debit.
13	Martin, McC	W. R. Barnes	D. P. Schupp	Shonk, Payne	817	Oct.	1882	Case	Not guilty.

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NO.	PL'FFS' ATT'YS.	PLAINTIFFS.	DEFENDANTS.	DEF'TS' ATT'YS.	NO.	TERM.	YR.	ACTION.	PLEA.
14	Derr, Farnham	Use of D. P. Ayars	Continental Ins. Co	McGahren	821	Oct.	1882	Appeal	Non assumpsit, pay't with leave, &c.
15	Ricketts	Clara S. Berlin	Abram Nesbitt, et al	Payne	346	Nov	1882	Ejectment	Not guilty.
16	Farnham, Gates	William Gethings, dec'd	C. S. Stark, dec'd	Darlings	283	Jan.	1883	Case	Not guilty, statute of limitation
17	P. D. & F., P., P	S. S. Winchester, dec'd.	Penn. Coal Co., et al	McCl D.&A.,Dar	28	March	1883	Ejectment	Not guilty.
18	F. A. L.	John Zell	Twp. of Black Creek	Farnham	166	March	1883	Case	Not guilty.
19	Miller	Rockwell & Hurlbutt	R. D. Lloyd, et al	C	154	Nov	1883	Sci. fa. sur mort	Payment with leave, &c.
20	P.	Use of John Garrahan	Jonas Randall	Butler	62	Jan.	1884	D. S. B.	Nul tiel record, pay't w. l., nil debit
21	C.	S. Hirsch	Williams & Tite	J. T. L.	415	Jan.	1884	Appeal	Non assumpsit.
22	Hahn	Fredericka Bowman	John Bowman	E. A. L.	29	May	1884	Issue in Divorce.	

ORPHANS' COURT ARGUMENT LIST.

SATURDAY, OCTOBER 25, 1884.

1	In Re Estate of Araminda S. Rogers, deceased	Nichols, T. H. B., L	Exceptions to final account of Guardian.
2	In Re Estate of Darius L. Myers, deceased	Nichols, T. H. B., L	Exceptions to final account of Guardian.
3	In Re Estate of Joseph Sorber, deceased	Cannon, Lynch	Exceptions to final account of Guardian.
4	In Re Estate of Joseph Jaquish, deceased	Payne	Exceptions to final account of Administrator.
5	In Re Estate of Stephen Melick, deceased	Rhone, Shonk	Exceptions to final account of Executor.
6	In Re Estate of Erastus Smith, deceased	P., Richards	Exceptions to partial account of Executors.
7	In Re Estate of Jacob Billheimer, deceased	Darlings, Brundage	Exceptions to final account of Executors.
8	In Re Estate of Olmstead Dickinson, deceased	T. H. B. L., Shoemaker	For rehearing of audit.
9	In Re Estate of A. Donop, deceased		For order to sell real estate.

COMMON PLEAS CERTIORARI LIST.

MONDAY, NOVEMMBER 10, 1884.

NO.	PLAINTIFFS' ATTORNEYS.	PLAINTIFFS.	DEFENDANTS.	DEFENDANTS' ATTORNEYS.	
1	Lenahan	J. F. Donohue	S. L. Brown	McCartney	Certiorari.
2	Farnham	David Natrath	Daniel Mulherin		Certiorari.
3	B. & N	Wm. Moore & Co	Ira B. Wolfinger		Certiorari.
4	B. & N	James McGinty et al	J. J. Smythe	L.	Certiorari.
5	Hines, Hahn	Thomas H. Bond	John H. Hetler	J	Certiorari.
6	J. L. L	John Keeley	Peter Wentzel		Certiorarl.
7	J	Benjamin Armstrong	George Sager		Certiorarl.
8	M.	Hiram Booth	Joseph Stranix	J. T. L	Certiorari.
9	J. L. L	Robert Cronan	John H. Harris		Certiorarl.
10	J. T. L	Hannah Brooks	Hugh Reel	N	Certiorarl.

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11	Strauss	Adam Dombrowsky	Singer Manufacturing Co	McA	Certiorari.
12	W	Samuel Martz	Edmund Klinesmith		Certiorari.
13	M	Leon Mikulewicz	Ignatius Valandavage		Certiorari.
14	C.	Wiseman & Blatner	B. E. Brundage	M	Certiorari.
15		L. F. Cope	Frank Long		Certiorari.
16	N	Baltzer Helfrich et al	Samuel Keithline		Certiorari.
17	J. T. L	John Edwards et ux	Edward Carr	N	Certiorari.
18	J. T. L	William Amos	N. W. Abbey	M	Certiorari.
19	Mosier	Aaron Brown	Fr. & M. M. F. Ins. Co		Certiorari.
20		Samuel Van Why	S. Burgunder	Hahn	Certiorari.
21	B	John Henegham	Charles Holden		Certiorari.
22	B	John Holcroft	Charles Holden		Certiorari.
23		R. L. Cartright	Mary Keating		Certiorari.
24	B. & N	F. & C. Ins. Co. of N. Y	Thomas Ketrick, et ux		Certiorari.
25	T	Albert Buckman, et al	A. B. Brown	Mosier	Certiorari.
26	O. N	William Gimber	William Fehlinger		Certiorari.
27	J	Hugh Thomas, et al	Robert Thomas		Certiorari.
28	J	J. W. McConnel	John Gorman		Certiorari.
29	R	Philip Richards, et al	John H. Kelley	Opp	Certiorari.
30	D. & A	Payne Pettebone	Thomas McAndrew		Certiorari.
31	Martin	William Jenkins, jun., et al	S. S. Jenkins		Certiorari.
32	L	Harry McGroarty	William Honeywell		Certiorari.
33	McL	Michael Quinn	John Gilroy		Certiorari.

COMMON PLEAS ARGUMENT LIST.

TUESDAY, NOVEMBER 11, 1884.

NO.	PLAINTIFFS' ATTORNEYS.	PLAINTIFFS.	DEFENDANTS.	DEFENDANTS' ATTORNEYS.	RULE.
1	C. B. Jackson, Farnham	Seth B. Bowman	Daniel F. Seybert	Ricketts	For new trial.
2	Ferris	Andrew Bryden	Sheble & Hill	Sturges, Lamb	For new trial.
3		Sumner, Reed, Williams & Co	Paul Sucharski et al	Strauss, P	For new trial.
4	B. & N., F., McL	E. P. Steele & Co. et al	Paul Suchorski	Miller, J. L	For new trial.
5	J., Gates	Charles Elliott	W. L. Paine	Shonk, Farnham	For new trial.
6		J. H. Barnes	Wilson J. Smith	O'Neill	For new trial.
7	Farnham	In Re Assignment of	John Stuart	Robinson	Exceptions to Auditor's report.
8	Hahn, Bedford	Hartford Fire Ins. Co	H. Oppenheimer	Brundage, Strauss	Exceptions to decision of court.
9	Farnham	In Re Assignment of John	Stuart for ben't of creditors		To open partial account of Assignee, &c.
10	W	Freeman Larned	Reuben Godshall	W	Exceptions to Referee's report.
11	Darlings, Ricketts	F. B. Myers et al	Kingston Coal Co., limited	Payne	Exceptions to report of Master.
12	C. H. & E. W. S., R. & L., D	H. N. Boor, et al	M. B. & L. Association	McL	Exceptions to report of Master.
13	R	J. J. Wagonhorst	Stephen Kistler, dec'd	S., Palmer	Exceptions to report of Master.
14	S., Farnham	John Lowrie	Lewis Pizer	R	To open judgment as to all except $192.
15	S	John Lowrie	James Cowperthwaite, et al	G	To open judgment, &c.
16	Farnham	In Re Assignment of	John Stuart		To open account of Assignee, &c.
17	Miller	W. P. Kirkendall	W. H. Williams et al	Osborne	To open judgment.
18	Robinson	C. A. Zeigler, Ad.	Fred. Reufer	B. & N	To open judgment.
19	Robinson	C. A. Zeigler, Ad.	Fred. Reufer	B. & N	To open judgment.

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TUESDAY, NOVEMBER 11, 1884—CONCLUDED.

NO.	PLAINTIFFS' ATTORNEYS.	PLAINTIFFS.	DEFENDANTS.	DEFENDANTS' ATTORNEYS.	RULE.
20	Darlings	Use of John M. Ward	Henry Zeigler et al		To open judgment as to all except $30.
21	Connollys	Patrick McCann	Excelsior Building Asso	T. F. W	To revoke appointment of sequestrator.
22	Farnham	Henry Lutz, assigned	W. & P. Cordner	S	To strike off judgment.
23		Richard Jones	James Bevan	J. L	To quash writ &c.
24		Use of M. C. Earley	Borough of Pleasant Valley	McGahren	For assignment of $150.
25	R. & L	Thompson & Kersey	Sallie H. Owen et al	Payne, Darlings, L	To strike off judgment, &c.
26	R. & L	Maria Street	K. R. Owen et al	Payne, Darlings, L	To strike off judgment, &c.
27	Lamb, F	E. L. Diefenderfer	Owen Caffrey, dec'd	McG	To strike off appeal.
28	J. & Son	Henry Kindig	Samantha Crevelling et al	Troutman	To open judgment.
29	Troutman	Susan Ann Smyth	James Smith		For alimony, &c.
30		N. Borneisen, assigned	James McCartney et al	K	For subrogation.
31	M	Hiram Booth	Daniel McAlister		To reverse proceedings.
32	M	Hiram Booth	Joseph Stranix		To reverse proceedings.
33	A. H. McClintock, D	Frank Young, Trustee	O. P. Kester et al	Payne	To open judgment.
34	Strauss	Michael Worgo	Fuller Coal Co., Garnishee	D. & A	To enter judgment.
35	Strauss	George Shuta	Fuller Coal Co., Garnishee	D. & A	To enter judgment.
36	B. & N	Goldstein, Friedman & Co	M. Sondheim		To dissolve attachment.
37	Brundage	T. J. Good	Smith & Sellover	J. T. L	To open judgment.
38	Osborne	William Croop	Mary Croop	J. T. L	For alimony, &c.
39	Kisner	John Faux	P. H. Good et al.	J. T. L	To open judgment.
40	H	D. J. Evans	James E. Roderick	J. L	To add John Lynch as another defendant.
41	Foster	W. B. & L. Assoc'n, Asse	Garner A. Parks	R	To stay vend. ex. as to $187,76.
42	J. L. L	Thomas Lyons	William H. Jones	Mahon	For set-off.

WEDNESDAY, NOVEMBER 12, 1884.

43	S	John McAnany	Michael McGough		To strike off appeal.
44	O'Neill	D. L. O'Neill	Peter Davies et al	Evans	To dissolve attachment.
45	O'Neill	D. L. O'Neill	Matthew Leckie et al	Evans	To dissolve attachment.
46	McLean, Gibbons	G. M. Nagle, Ad., et al	John Davis	Gates	To set aside Sheriff's sale.
47	Butler, R	Jacob Matthias	Barnet Searfoss	Brundage	To strike off discontinuance, &c.
48	Sturges	William Hall & Co.	Pittston Knitting Co., lim'd	Ferris	To take out money by trustee.
49	Sturges	Sheble & Hill	Pittston Knitting Co., lim'd	Ferris	To take out money by trustee.
50	Kline	Fred. Horlacher	Charles Karshner	Troutman	To open judgment.
51	McLean, Gibbons	Heisz & Lawrence	M. C. Tamony	Gates	Why committee shall not pay judgment, &c.
52	Fuller	Luther Curtis	William Wiley	O'Neill	For substitution.
53	Magee	Joseph Poukaztis	Frank Ovzchowsky	Shonk	To open judgment.
54	W	William Toothe	E. G. Butler		To vacate order.
55	C	W. W. Smith	Susan Smith	Shonk, Gates	To quash capias.
56	C	W. W. Smith	Sarah Womelsdorf	Shonk, Gates	To quash capias.
57	D. & A	Fuller Coal Co	Samuel Loudonberg	Jenkins	To file exceptions, &c.
58	L	Commonwealth, ex rel	County Commissioners	McLean	For mandamus.
59	Ferris	Gold Heater Company	T. S. Barrett	S., B	To strike off judgment.
60	McLean, G	Lewis Stull	Florian Goss	Reynolds	To open judgment as to $48.
61		Wesley Rubert	Jos. F. Hicks	Gates	To dismiss proceedings.

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62	B	Edward Byron, et ux	John Gibbins		To abate capias.
63	Hahn	Mary Laux	George Schauble		For attachment.
64	J. L	Levi Lear	L. & W.-B. Coal Co., et al	McClintock, Palmer	To discontinue suit.
65	Gates	Use of S. P. Williams	Mary A. Larnard, et al	Martin	To strike of sci. fa.
66	Walker	Michael Meixell	Margaret Meixell	Martin	For alimony
67	McCartney	Roswell Luther	R. C. Mitchell		To strike off appeal.
68	Troutman	Jane Job	Holmes & Passage	Sturges	To strike off non suit.
69	R	Asa Meade	A. P. O'Malley, et ux	J. L. L	To strike off appeal.
70	McAlarney, R	John Drew	Gaylord Coal Co	Payne, Palmer	To strike off non suit.
71	M	A. E. M. Larson	Marsinius Christian, et al	Halsey	Exceptions to answer.
72	Price	Scranton Savings Bank	D. S. Kidder, et al	McLean	For substitution.
73		In Re Account of	Andrew Bryden, trustee		Exceptions to Auditor's report.
74	Payne	Sarah S. Bennett	Henry H. King	C	To open judgment.

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QUARTER SESSIONS ARGUMENT LIST.

MONDAY, NOVEMBER 10, 1884.

1	In Re Road in Newport Township	McL. & J., Darlings, Hines	Exceptions to report of viewers.
2	In Re Private Road in Kingston Township	Gates, P	Exceptions to report of viewers
3	In Re Road in Conyngham Township	McLean, Brundage	Exceptions to report of reviewers.
4	In Re Road in Huntington Township	Hand, Gates	Exceptions to report of viewers.
5	In Re Road in Salem Township	Gates, Atherton	Exceptions to vacate and relay road.
6	In Re Road in Kingston Township	Gates	Exceptions to report of viewers.
7	In Re Road in Hunlock Township	Brundage, C	Exceptions to report of viewers.
8	In Re Road in Ross Township		Exceptions to report of viewers.
9	In Re Road in Huntington Township		Exceptions to report of reviewers.
10	In Re Commonwealth v. George Judge		To take off forfeiture of recognizance.
11	In Re Commonwealth v. William Girton et al		To have sentence reconsidered, &c.
12	In Re Commonwealth v. F. C. Pilger	Shoemaker	To set aside verdict.
13	In Re Pittston Township		For appointment of supervisor.
14	In Re Road in Ross Township	Gates, Martin	Exceptions to report of viewers.
15	In Re North Election District of Huntington Township	McCartney, J. T. L	Exceptions to change of boundaries.
16	In Re Road in Foster Township		To strike off confirmation.
17	In Re Poor Districts of Ross Township and Shickshinny		Exceptions to report of Auditor.

23

LUZERNE COUNTY, ss;

In the Court of Common Pleas of said county. No. 117, January term, 1884. Libel in divorce a vinculo matrimonii. Susan A. Snyder, by her next friend, A. Fischer, *v.* Hiram J. Snyder. To Hiram J. Snyder—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoena having failed on account of your absence. Returnable on Monday, October 20, A. D. 1884, at 10 o'clock A. M.

GEORGE K. POWELL,
Solicitor.

41-42

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 209, January term, 1884. Libel in divorce a vinculo matrimonii. Diannah Yocum, by her next friend, Elisha Culver, *v.* James Yocum. To James Yocum—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoenas having failed on account of your absence. Returnable on Monday, October 20, A. D. 1884, at 10 o'clock A. M.

M. E. WALKER,
Solicitor.

41-42

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 176, January term, 1884. Libel in divorce a vinculo matrimonii. Ann Thomas, by her next friend, Wm. D. Williams, *v.* John H Thomas. To John H. Thomas—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoena having failed on account of your absence. Returnable on Monday, October 27, A. D. 1884 at 10 o'clock A. M.

GEORGE W. SHONK,
Solicitor.

41-42

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ORPHANS' COURT SALE.

Estate of Anthony Howley, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Saturday, the 8th day of November, A. D. 1884, at 10 o'clock A. M.,

All that lot of land in Plains township, beginning on the road of the Wilkes-Barre and Providence Plank Road Company at a point at the north corner of the lot on which the miner's house stands on the farm of James Hancock, thence along said plank road 50 feet to a corner on a proposed street, thence along said proposed street 135 feet to a corner, thence fifty feet to a corner, and thence 135 feet to the plank road aforesaid the place of beginning; containing 6,750 square feet of land; coal and other minerals reserved; improved with 1 2-story frame dwelling house, occupied as a hotel, and other outbuildings thereon.

TERMS OF SALE.—15 per cent. of the whole purchase money down at the time of sale, and one-third of what still remains unpaid on the confirmation of sale, and the balance, with interest from the confirmation, in one year from the confirmation. The payments to be made after confirmation to be secured by bond and mortgage on the premises.

JAMES HOWLEY,
HARDING & McGAHREN, Administrator.
42-44 Attorneys.

AUDITOR'S NOTICE.

In the Common Pleas of Luzerne county. In Equity. No. 6, October term, 1876. Wm. N. Monies et al., Executors, v. A. D. King. The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county to examine the sixth partial account of George Bishop, Receiver of the late firm of Howell & King, and to ascertain what proportion of the fund now in his hands may be safely distributed, and to make distribution of the same, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, in Wilkes-Barre, on Friday, October 31st, 1884, at 10 o'clock A. M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

THOMAS H. ATHERTON,
41-44 Auditor.

NOTICE IS HEREBY GIVEN, THAT AN application will be made to one of the law judges of the Court of Common Pleas of Luzerne county, on Saturday the 1st day of November, 1884, at 10 o'clock A. M., under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, for the charter of an intended corporation, to be called the "King John Sobieski Guards," the character and object whereof is the mutual improvement and protection of its members, to nurse and assist in the maintenance of the sick, to bury the dead, and to care for the widows and orphans. The business of the intended corporation is to be carried on at Alden Station, in said county of Luzerne, and for this purpose to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements.

T. J. CHASE,
41-43 Solicitor.

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 28, May term, 1884. Libel in divorce a vincula matrimonii. Lizzie Straw, by her next friend and father, T. M. Casselberry, v. Edward Straw. The alias subpoena in the above case having been returned, "That the said Edward Straw cannot be found in Luzerne county." You, the said Edward Straw, respondent, are required to appear on Monday, November 17, A. D. 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
C. W. KLINE, Sheriff.
Attorney. 41-44

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 546, May term, 1884. Libel in divorce a vinculo matrimonii. Esther B Schofield, by her next friend, Henry Gilmore, v. George W. Schofield. To George W. Schofield—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoena having failed on account of your absence. Returnable on Monday, October 20, A. D. 1884, at 10 o'clock A. M.

HENRY W. DUNNING,
41-42 Solicitor.

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 394, October term, 1882. Libel in divorce a vinculo matrimonii. Burton W. Stevens v. Medima Stevens. To Medima Stevens—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoena having failed on account of your absence. Returnable on Monday, November 10, A. D. 1884, at 10 o'clock A. M.

GUSTAV HAHN,
42-43 Solicitor.

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 174½, February term, 1884. Libel in divorce a vinculo matrimonii. Agnes M. Toshack, by her next friend William McDonald, v. John Toshack. To John Toshack—Please take notice that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoena having failed on acount of your absence. Returnable on Saturday, November 1, 1884, at 10 o'clock, A. M.

ALEXANDER FARNHAM,
42-43 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Monday, the 20th day of October, A. D. 1884, at 10 o'clock A. M., under the Act of the General Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation of Certain Corporations," approved April 29, 1874, and the supplements thereto, for the charter of an intended corporation to be called the "Wyoming District of Ancient Order of Foresters," the character and object of said corporation is benevolent; to commemorate the Ancient Order of Foresters, and specially to establish a District Court of such order in and for the county of Luzerne.

HINES & BELL,
40-42 Solicitors.

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Monday, the 17th day of November, A. D. 1884, at 10 o'clock A. M., in pursuance to the Act of the General Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation of certain Corporations," approved April 29, 1874, and the supplements thereto, for the charter of an intended corporation, to be called "The Society of the Sisters of Mercy," the character and object of said incorporation are charity, education, and benevolence.

WM. R. GIBBONS,
42-44 Solicitor.

IN COMMON PLEAS, No. 397, October term, 1883. Take notice that W. G. Gregory, trustee in partition of the real estate of Roswell Trumbell, late of Black Creek, deceased, has filed his final account, and distribution of the funds, and all persons will be debarred from participating in the fund other than as therein named, unless exception be filed before November 17th, 1884.

Q. A. GATES,
42-44 Attorney for Estate.

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IN THE COURT OF QUARTER SESSIONS of Luzerne county. In Re Division of the borough of Edwardsville into three election districts. Notice is hereby given that the report of the Commissioners in the above stated case was filed with the Clerk of Court of Quarter Sessions on the 6th day of October, 1884, and confirmed *nisi*, and the same will be by said Clerk presented to the court for confirmation, and that said confirmation will be absolute, unless exceptions thereto be filed within twenty days from said date.

L. K. STRENG,
41-43 Clerk Q. S.

NOTICE IS HEREBY GIVEN, THAT CHAS. Bogert, jun., has presented his petition for the benefit of the insolvent laws, and that the time for hearing said petition is fixed for the 17th day of November, 1884, at 10 o'clock A. M.

CHARLES BOGERT, JUN.
42-44

NOTICE IS HEREBY GIVEN, THAT MATthew John has presented his petition for the benefit of the insolvent laws, and that the time for hearing said petition is fixed for the 10th day of November, 1884, at 10 o'clock A. M.

Q. A. GATES,
42-44 Attorney for Petitioner.

ESTATE OF J. B. DOW, LATE OF WILKES-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

WILLIAM B. DOW,
37-42 Wilkes-Barre, Pa.

ESTATE OF MARTHA A. HUTCHISON, late of Plymouth, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

IRA D. PRINGLE,
37-42 Plymouth, Pa.

ESTATE OF CONRAD SCHURCHARD, LATE of Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES ERMICH,
40-45 Hazleton, Pa.

ESTATE OF JAMES LOMISON, LATE OF Salem township, deceased.

Letters of administration *cum testamento annexo, de bonis non* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HIRAM ECKROTH,
41-46 Mifflinville, Pa.

ESTATE OF MICHAEL MALIA, LATE OF Pittston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BRIDGET MALIA,
42-47 Pittston, Pa.

CHAS. D. FOSTER,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

ESTATE OF DANIEL S. BENNET, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands, to present the same, without delay, to

MAGGIE M. BENNET,
F. W. WHEATON, Wilkes-Barre, Pa.
Attorney. 40-45

ESTATE OF GEORGE ENGLER, LATE OF Dorrance township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELDRIGE ENGLER,
C. D. FOSTER, Wilkes-Barre. Pa.
41-46 Attorney.

ESTATE OF JOHN REICHARD, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE N. REICHARD,
JOHN REICHARD, JUN.,
42-47 E. S. OSBORNE.

ESTATE OF WILHELMINA REICHARD, Late of Wilkes-Barre, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEO. N. REICHARD,
E. S. OSBORNE, Wilkes-Barre, Ba.
Attorney. 42-47

ESTATE OF SARAH C. WAGNER, LATE OF White Haven, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EDWARD TATTERSHALL,
GUSTAV HAHN, White Haven, Pa.
Attorney. 42-47

ESTATE OF CONRAD J. EICHLER, LATE of Hazleton, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

NICHOLAS EICHLER,
E. P. KISNER, Hazleton, Pa.
Attorney. 39-44

ESTATE OF DANIEL K. MEADS, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

FRANCIS A. PHELPS,
E. P. & J. V. DARLING, Wilkes-Barre, Pa.
Attorneys. 40-45

ESTATE OF PETER STYRLING, LATE OF Pittston township, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BRIDGET STYRLING,
39-44 Pittston, Pa.

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ESTATE OF LYMAN KRESGE, LATE OF Bear Creek township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

AMANDUS KRESGE,
E. P. & J. V. DARLING, Miner's Mills, Pa.
Attorneys. 40-45

ESTATE OF ELEANOR B. BEAUMONT, deceased.

Notice is hereby given that letters testamentary in the said estate have been duly granted to the undersigned by the Register of Wills of the county of Lebanon, where the said testatrix resided at the time of her death, and that all persons indebted to the said estate will make payment thereof, and all persons having claims thereon, will present the same for payment to

EUGENE B. BEAUMONT,
Executor, Wilkes-Barre, Pa.
E. P. & J. V. DARLING,
41-46 Attorneys.

ESTATE OF ELIZABETH B. DAMON, LATE of Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE S. FERRIS,
38-43 Pittston, Pa.

ESTATE OF ANN CRANSTON, LATE OF Pleasant Valley, deceased

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

JAMES CRANSTON,
DAVID CRANSTON,
41-46 Marr, Pa.

ESTATE OF DANIEL SCURRY, LATE OF Carbondale, Lackawanna county. deceased.

Letters of administration *cum testamento annexo, de bonis non* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

DANIEL SCURRY,
J. E. BURR, Carbondale, Pa.
Attorney. 41-46

W. S. PARSONS,

ALDERMAN,

WILKES-BARRE, PA.

WILLIAM S. McLEAN,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, OCTOBER 24, 1884. NO. 43.

Supreme Court of Pennsylvania.

SHOVLIN *et al. v.* COMMONWEALTH.

1. Under the criminal code of 1860 an officer has full authority to arrest, without a warrant, any person found in the act of gambling.
2. On an indictment charging an officer with assault and battery for arresting a gambler without a warrant, the question is not whether he was guilty of the assault in making the arrest, but whether he was guilty of the offense for which he was indicted by reason of his having used more force than was reasonably necessary under the circumstances.
3. An officer authorized to arrest without warrant, is not bound before doing so to give the party arrested notice of his purpose, nor is he bound to give notice of the fact that he is legally qualified to make the arrest.

Error to the court of Quarter Sessions of Luzerne county.

STERRETT, J.—After prohibiting various forms of gambling, prescribing penalties therefor, etc., our crimes act of March 31, 1860, declares, "It shall and may be lawful for any sheriff, constable, or other officer of justice, with or without warrant, to seize upon, secure, and remove any device or machinery of any kind, character, or description whatsoever, used and employed for the purpose of unlawful gaming as aforesaid, and to arrest, with or without warrant, any person setting up the same." It is not seriously questioned that Bowser, the person on whom the alleged assault and battery was committed, was openly engaged in violating both the letter and spirit of the act; indeed, it is very evident from the testimony that plaintiffs in error were as fully authorized, by the section above quoted, to seize the gambling apparatus and arrest the proprietor thereof, as if they had been armed with a warrant for that purpose. The question, therefore, was not whether they were guilty of an assault and battery in making the arrest, but whether they were guilty of the offense for which

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they were indicted by reason of their having used more force than was reasonably necessary under the circumstances; and, in the main, that question was fairly submitted to the jury. The first assignment of error is not sustained. In charging as therein specified, the learned judge expressed a decided opinion as to the effect of the commonwealth's testimony, but the jury could not have been unduly influenced thereby for the reason that in the very next sentence he said to them, "If, on the other hand, you believe the evidence of the defendants and their witnesses, that they exercised no more force than was necessary to vindicate the law and protect themselves from injury, they should be acquitted." The question of fact was thus left to the jury without anything more than a mere expression of opinion as to the effect of the testimony, if believed. One of the questions involved in the second specification is, whether an officer, authorized to arrest without warrant, is bound before doing so "to give the party to be arrested clear and distinct notice of his purpose to make the arrest, and also of the fact that he is legally qualified to make it;" in other words, may the officer be convicted of assault and battery for making the arrest without first giving such notice? While, in most cases, it may be prudent for the officer to give the notice before making the arrest, it is going too far to say in effect that he is required to do so; and, therefore, we think the learned judge erred in charging the jury as he did on that subject. In considering the question, as presented by the undisputed facts of this case, it is fair to assume that the constable and his assistants, plaintiffs in error, were authorized to make the arrest; that the authority with which the constable was expressly clothed by the act was, at least, equivalent to a warrant. It is doubtless the duty of an officer who executes a warrant of arrest to state the nature and substance of the process which gives him the authority he professes to exercise, and, if it is demanded, to exhibit his warrant, that the party arrested may have no excuse for resistance. 1 Chit. C. L. 51. On the other hand, as is said in Commonwealth *v.* Cooley, *et al.*, 72 Mass. R. 350, 356, "the accused is required to submit to the arrest, to yield himself immediately and peaceably into the custody of the officer, who can have no opportunity until he has brought his prisoner into safe

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custody, to make him acquainted with the cause of his arrest, and the nature, substance, and contents of the warrant under which it is made. These are obviously successive steps. They cannot all occur at the same instant of time. The explanation must follow the arrest, and the exhibition and perusal of the warrant must come after the authority of the officer has been acknowledged, and his power over his prisoner has been acquiesced in." The general principle thus stated is equally applicable to arrest without warrant under authority of the statute. The second asssignment of error is sustained.

Judgment reversed, and it is ordered that the record, with copy of the foregoing opinion setting forth the cause of reversal, be remitted to the court of Quarter Sessions of Luzerne county for further proceedings.

Q. A. Gates, John T. Lenahan, and T. R. Martin, for commonwealth.

H. W. Palmer and John McGahren, *contra.*

Court of Common Pleas of Luzerne County.

ZEIS *v.* LUZERNE COUNTY.

Defendant was convicted of seduction and sentenced to pay fine and undergo imprisonment. Having served his term and paid the fine he was discharged on *habeas corpus*; the record of the sentence and the commitment showing no sentence for costs. *Held*, that the county was liable for the costs.

The opinion of the court was delivered October 13, 1884, by

RICE, P. J.—This case is without reported precedent, and the question involved is not likely ever to arise again. The question is, whether the county is liable for the costs of prosecution in the case of Commonwealth *v.* Hadfield. See *In re.* Hadfield 13 Luz. Leg. Reg. 265, 3 Kulp 135. The case differs from an indictment quashed, or ended by *nolle prosequi*, in neither of which cases is there a conviction or discharge. Neither of these cases comes within the terms of any of our statutes relating to the liability of the county for costs in criminal cases. In the

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present case there was a conviction, a sentence, and, presumably, a discharge according to law. The discharge was not under the insolvent laws, it is true, but nevertheless it was held that the defendant, Hadfield, could no longer be held on the commitment. The case seems to us to be analogous to the case of a pardon after conviction and before sentence, in which it is held that the county is liable. York County *v.* Dalhousie, 9 Wr. 372; Commonwealth *v.* Hitchman, 10 Wr. 357.

And now, October 13, 1884, judgment is entered for the plaintiff on the case stated.

W. R. Gibbons, for plaintiff.

Geo. B. Kulp, *contra.*

Court of Common Pleas of Luzerne County.

LUZERNE COUNTY *v.* CAMP MEETING ASSOCIATION.

Under the act of May 14, 1874, and section 2, article IX., of the constitution, only that part of the property of a camp meeting association that is actually used for the purpose of religious worship is exempt from taxation.

The opinion of the court was delivered August 16, 1884, by

RICE, P. J.—We are of opinion that only the one acre and a half, with the pulpit, auditorium, and tabernacle thereon are exempt from taxation under the act of May 14, 1874, P. L. 158. The section of the act incorporating the defendant association which exempts all its property from taxation, was repealed by section 2, article IX., of the constitution, and the act of 1874, *supra*, and the latter is, therefore, the law governing the case. Lehigh Iron Company *v.* Lower Macungie Township, 31 Sm. 485, 486; Londonderry *v.* Berger, 2 Pears. Dec. 230; Moore *v.* Williams, 1 Kulp 256. It is positively decided in Summit Grove Camp Meeting Association *v.* School District, etc., 12 W. N. C. 103, that under the act of 1874 the residue of the property described in the case stated is subject to taxation.

And now, to wit, August 16, 1884, in accordance with the stipulations of the case stated, judgment is entered thereon in favor of the plaintiff for the sum of thirteen dollars.

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SHERIFF'S SALES.

Abstract of property to be sold by J. S. Oberrender, Sheriff of Luzerne county, on Saturday, November 15th, A. D. 1884, at 10 o'clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are numbered, to wit:

1

Suit of John Hance v. Hugh Nolan.
Cannon, Att'y.

1. All the equal undivided one-half part of all that lot of land in the city of Wilkes-Barre, beginning at a corner of a lot now or late of C. A. Ziegler, on the southeast side of an alley, thence along said Ziegler lot 90 feet to a corner in line of lot sold by George Smith and wife to Matilda Gibbs, thence along said Gibbs lot 50 feet to a corner, thence 90 feet to said alley, thence along the line of said alley 50 feet to the place of beginning; containing 4,500 square feet of land; coal and other minerals reserved; all improved with a large double 2-story frame building, occupied by two families, a barn, and other smaller outbuildings thereon.

2. All that lot of land beginning at a corner of the lot aforesaid, thenee along the line of said Eliza Nolan's lot 90 feet to a corner of lands of Hannah Brooks, thence along said Brooks lot 25 feet to a corner, thence 90 feet to said alley, and thence along the line of said alley 20 feet to the place of beginning; containing 2,250 square feet of land, being part of lot No. 33 in block No. 2 in plot of lots laid out by A. C. Laning; all improved with a large double 2-story frame building, occupied bo two families, a barn, and other small outbuildings thereon.

2

Suit of E. A. Hancock v. R. P. Crockett.
McLean & Gibbons, Att'ys.

All that piece of land in the township of Ross, beginning at the southwest corner at a post and stones corner in line of lands of George A. Crockett and Judson Wolf, and also being on the south corner of the Emanuel Turner survey of lands, thence along lands of G. A. Crockett 119 8-10 perches to line of lands of David Rood, thence along lands of David Rood 33 4-10 perches to line of lands of Crawford Rood, thence along line of lands of Crawford Rood 8 perches to a corner, thence 12 6-10 perches to centre of road, thence along road 24 5-10 perches to a post corner, thence 3 4-10 perches to a corner on east side of creek, thence 60 4-10 perches to a post in road at place where the Harveyville and Broadway road intersect, thence along road 28 4-10 perches to a corner in south line of Emanuel Turner survey, the same being the north line of lands of Judson Wolf, thence along lands of Judson Wolf 42 perches to the place of beginning; containing 32 acres and 69 perches; all improved with 1 2-story frame dwelling house about 25 feet wide and 40 feet long, with outbuildings, 1 barn and carpenter shop.

3

Suit of Payne Pettebone, surviving partner of William Swetland & Co., assigned to John Cosner, v. Jeremiah Cosner, administrator of William Cosner, dec'd.
Miller, Att'y.

1. All that lot of land in the township of Kingston bounded on the east by lands of Samuel Atherholt, on the south by lands of the heirs of Isaac Wyant and by lands of Steuben Jenkins, on the west by lands of William Harris and John Harris, and on the north by lands of David Reeves; containing 40 acres more or less; about 30 acres improved with 1 frame story and a half house, 1 barn and outbuildings, and fruit trees thereon.

2. All that lot of land in Kingston township bounded on the east by lands of John Harris, on the north by lands of Isaac Nulton, on the West by lands of John Hay, and on the south by lands of Daniel Heft; containing 70 acres more or less, about 30 acres improved.

4

Suit of Charles Lehman, assigned to R. D. Lacoe, v. Alva Tompkins.
Richards, Att'y.

1. All the following lot of land in the borough of West Pittston, beginning at a corner in the southerly line of Montgomery street and at the corner of lot of the estate of William Haston, deceased, thence along said Haston lot 200 feet to lands of the West Pittston Coal Company, thence along said lands 85 feet to lot contracted to Dennis Harris, thence along said lot 200 feet to Montgomery street, and thence along said street 85 feet to the place of beginning; containing 17,000 square feet of land more or less

2. All that lot of land in the borough of West Pittston, beginning at a corner on the southerly side of Montgomery street, thence along said street 100 feet to a corner of lot of Alva Tompkins, thence along said lot 200 feet to the land of the West Pittston Coal Company, thence along said land 100 feet to line of William R. Sax, and thence along said last mentioned lot 200 feet to the place of beginning; containing 20,000 square feet of land more or less.

All improved with a 1½-story wood dwelling house with a concrete 1-story kitchen, and a small barn, and fruit trees thereon, etc. 43-45

ORPHANS' COURT OF LUZERNE COUNTY.

Estate of John R. Brodhead, late of Buck township, Luzerne county and state of Pennsylvania, deceased. Now, 18th day of October, A. D. 1884, court grant rule upon the heirs and other parties interested in the partition of the estate of said decedent to appear in open court on the 17th day of November, A. D. 1884, at 10 o'clock A. M., and accept or refuse the real estate at the valuation fixed by return of inquest, or make bids on the same, or show cause why the same shall not be sold on their neglect or refusal to accept the same. In pursuance of the above order notice is hereby given to Cyrus Brodhead, Phillipsburg, Centre county, Pa.; Rachel Brodhead, Sauk Rapids, Benton county, Minn.; Nellie E. Stanchfield, Bethel, Anoka county, Minn.; Effie E. Stanchfield, Anoka, Anoka county, Minn.; Ward O. Brodhead, Russel W Brodhead, Mary K. Brodhead, Steel J. Brodhead, Worth O. Brodhead, all of Sauk Rapids, Benton county, Minn., and all others interested, to appear in Orphans' Court on the 17th day of November, A. D. 1884, at 10 o'clock A. M., in accordance with said order of the Orphans' Court.

JOSEPH HENDLER,
Clerk O. C.

J. S. HARDING,
Attorney. 43-45

ORPHANS' COURT SALE.

Estate of Anthony Howley, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Saturday, the 8th day of November, A. D. 1884, at 10 o'clock A. M.,

All that lot of land in Plains township, beginning on the road of the Wilkes-Barre and Providence Plank Road Company at a point at the north corner of the lot on which the miner's house stands on the farm of James Hancock, thence along said plank road 50 feet to a corner on a proposed street, thence along said proposed street 135 feet to a corner, thence fifty feet to a corner, and thence 135 feet to the plank road aforesaid the place of beginning; containing 6,750 square feet of land; coal and other minerals reserved; improved with 1 2-story frame dwelling house, occupied as a hotel, and other outbuildings thereon.

TERMS OF SALE.—15 per cent. of the whole purchase money down at the time of sale, and one-third of what still remains unpaid on the confirmation of sale, and the balance, with interest from the confirmation, in one year from the confirmation. The payments to be made after confirmation to be secured by bond and mortgage on the premises.

JAMES HOWLEY,
Administrator.

HARDING & McGAHREN,
Attorneys.
42-44

ESTATE OF CATHARINE MAY SNYDER,

late of Hollenback, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

B. M. ESPY,
Wilkes-Barre, Pa
43-48

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NOTICE IS HEREBY GIVEN, THAT AN application will be made to one of the law judges of the Court of Common Pleas of Luzerne county, on Saturday the 1st day of November, 1884, at 10 o'clock A. M., under the Act of Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation and Regulation of certain Corporations," approved April 29th, 1874, and the supplements thereto, for the charter of an intended corporation, to be called the "King John Sobieski Guards," the character and object whereof is the mutual improvement and protection of its members, to nurse and assist in the maintenance of the sick, to bury the dead, and to care for the widows and orphans. The business of the intended corporation is to be carried on at Alden Station, in said county of Luzerne, and for this purpose to have, possess, and enjoy all the rights, benefits, and privileges of the said Act of Assembly and its supplements.

T. J. CHASE,
41-43 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Monday, the 17th day of November, A. D. 1884, at 10 o'clock A. M., in pursuance to the Act of the General Assembly of the Commonwealth of Pennsylvania, entitled "An Act to provide for the Incorporation of certain Corporations," approved April 29, 1874, and the supplements thereto, for the charter of an intended corporation, to be called "The Society of the Sisters of Mercy," the character and object of said incorporation are charity, education, and benevolence.

WM. R. GIBBONS,
42-44 Solicitor.

NOTICE IS HEREBY GIVEN, THAT CHAS. Bogert, jun., has presented his petition for the benefit of the insolvent laws, and that the time for hearing said petition is fixed for the 17th day of November, 1884, at 10 o'clock A. M.

42-44 CHARLES BOGERT, JUN.

NOTICE IS HEREBY GIVEN, THAT MATthew John has presented his petition for the benefit of the insolvent laws, and that the time for hearing said petition is fixed for the 10th day of November, 1884, at 10 o'clock A. M.

Q. A. GATES,
42-44 Attorney for Petitioner.

AUDITOR'S NOTICE.

In the Common Pleas of Luzerne county. In Equity. No. 6, October term, 1876. Wm. N. Monies et al., Executors, v. A. D. King. The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county to examine the sixth partial account of George Bishop, Receiver of the late firm of Howell & King, and to ascertain what proportion of the fund now in his hands may be safely distributed, and to make distribution of the same, hereby gives notice that he will attend to the duties of his appointment, at his office, on Franklin street, in Wilkes-Barre, on Friday, October 31st, 1884, at 10 o'clock A. M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

THOMAS H. ATHERTON,
41-44 Auditor.

AUDITOR'S NOTICE.

The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county, to make distribution of proceeds of Sheriff's sale of the real estate of Solomon Heller, hereby gives notice, that he will attend to the duties of his appointment, at the office of Justice Gorman, Wyoming street, Hazleton, Pa., on Wednesday, the 19th day of November, A. D. 1884, at 10 o'clock A. M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

J. A. GORMAN,
43-46 Auditor.

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 394, October term, 1882. Libel in divorce a vinculo matrimonii. Burton W. Stevens *v.* Medima Stevens. To Medima Stevens—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoena having failed on account of your absence. Returnable on Monday, November 10, A. D. 1884, at 10 o'clock A. M.

GUSTAV HAHN,
42-43 Solicitor.

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 174½, February term, 1884. Libel in divorce a vinculo matrimonii. Agnes M. Toshack, by her next friend William McDonald, *v.* John Toshack. To John Toshack—Please take notice that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoena having failed on acount of your absence. Returnable on Saturday, November 1, 1884, at 10 o'clock, A. M.

ALEXANDER FARNHAM,
42-43 Solicitor.

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 28, May term, 1884. Libel in divorce a vinculo matrimonii. Lizzie Straw, by her next friend and father, T. M. Casselberry, *v.* Edward Straw. To Edward Straw—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpoena having failed on account of your absence. Returnable on Monday, November 17, A. D. 1884, at 10 o'clock A. M.

C. W. KLINE,
41-44 Solicitor

ESTATE OF CONRAD SCHURCHARD, LATE of Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES ERMICH,
40-45 Hazleton, Pa.

ESTATE OF MICHAEL READING, LATE OF Wilkes-Barre, Pa., deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

THOMAS F. SHERIDAN,
P. H. CAMPBELL, Wilkes-Barre, Pa.
Attorney. 43-48

ESTATE OF DANIEL S. BENNET, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands, to present the same, without delay, to

MAGGIE M. BENNET,
F. W. WHEATON, Wilkes-Barre, Pa.
Attorney. 40-45

ESTATE OF GEORGE ENGLER, LATE OF Dorrance township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELDRIGE ENGLER,
C. D. FOSTER, Wilkes-Barre. Pa.
41-46 Attorney.

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ESTATE OF JOHN REICHARD, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE N. REICHARD,
JOHN REICHARD, JUN.,
42-47 E. S. OSBORNE.

ESTATE OF WILHELMINA REICHARD, Late of Wilkes-Barre, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEO. N. REICHARD,
E. S. OSBORNE, Wilkes-Barre, Pa.
Attorney. 42-47

ESTATE OF SARAH C. WAGNER, LATE OF White Haven, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EDWARD TATTERSHALL,
GUSTAV HAHN, White Haven, Pa.
Attorney. 42-47

ESTATE OF CONRAD J. EICHLER, LATE of Hazleton, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

NICHOLAS EICHLER,
E. P. KISNER, Hazleton, Pa.
Attorney. 39-44

ESTATE OF DANIEL K. MEADS, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

FRANCIS A. PHELPS,
E. P. & J. V. DARLING, Wilkes-Barre, Pa.
Attorneys. 40-45

ESTATE OF LYMAN KRESGE, LATE OF Bear Creek township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

AMANDUS KRESGE,
E. P. & J. V. DARLING, Miner's Mills, Pa.
Attorneys. 40-45

ESTATE OF PETER STYRLING, LATE OF Pittston township, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BRIDGET STYRLING,
39-44 Pittston, Pa.

ESTATE OF ELIZABETH B. DAMON, LATE of Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE S. FERRIS,
38-43 Pittston, Pa.

ESTATE OF JAMES LOMISON, LATE OF Salem township, deceased.

Letters of administration *cum testamento annexo, de bonis non* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HIRAM ECKROTH,
41-46 Mifflinville, Pa.

ESTATE OF MARY H. WILLIAMSON, LATE of Wilkes-Barre, Pa., deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. R. BRUNDAGE,
43-48 Wilkes-Barre, Pa.

ESTATE OF MICHAEL MALIA, LATE OF Pittston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BRIDGET MALIA,
42-47 Pittston, Pa.

ESTATE OF ANN CRANSTON, LATE OF Pleasant Valley, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

JAMES CRANSTON,
DAVID CRANSTON,
41-46 Marr, Pa.

ESTATE OF ELEANOR B. BEAUMONT, deceased.

Notice is hereby given that letters testamentary in the said estate have been duly granted to the undersigned by the Register of Wills of the county of Lebanon, where the said testatrix resided at the time of her death, and that all persons indebted to the said estate will make payment thereof, and all persons having claims thereon, will present the same for payment to

EUGENE B. BEAUMONT,
Executor, Wilkes-Barre, Pa.
E. P. & J. V. DARLING,
41-46 Attorneys.

IN THE COURT OF QUARTER SESSIONS of Luzerne county. In Re Division of the borough of Edwardsville into three election districts. Notice is hereby given that the report of the Commissioners in the above stated case was filed with the Clerk of Court of Quarter Sessions on the 6th day of October, 1884, and confirmed *nisi*, and the same will be by said Clerk presented to the court for confirmation, and that said confirmation will be absolute, unless exceptions thereto be filed within twenty days from said date.

L. K. STRENG,
41-43 Clerk Q. S.

IN COMMON PLEAS, No. 397, October term, 1883. Take notice that W. G. Gregory, trustee in partition of the real estate of Roswell Trumbell, late of Black Creek, deceased, has filed his final account, and distribution of the funds, and all persons will be debarred from participating in the fund other than as therein named, unless exception be filed before November 17th, 1884.

Q. A. GATES,
42-45 Attorney for Estate.

W. S. PARSONS,
ALDERMAN,
WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, OCTOBER 31, 1884. No. 44.

Supreme Court of Pennsylvania.

FRAUENTHAL *v.* DERR & BRO.

1. A suit cannot be maintained against a person merely for undertaking to get a property insured where he was paid nothing, and where the premium had not been paid.

2. That is a mere non-feasance of an executory promise.

Error to the court of Common Pleas of Luzerne county.

The opinion of the court was delivered October 3, 1883, by

GREEN, J.—It is not very easy to determine the precise character of the contract upon which the plaintiff seeks to recover. The *narr* is not printed and is not before us. The history of the case does not define the contract, nor does the argument. It is alleged that certain facts recited in the history and argument constituted a *valid* contract, but a contract for what is not stated. The plaintiff's first point claims that if the defendants agreed to furnish to the plaintiff insurance upon his stock and furniture, in consideration of his agreement to pay them for so doing a premium upon such insurance, such an agreement would constitute a valid contract. The substance of this point seems to be treated, by the counsel on both sides and the court, as the test of the plaintiff's case, and as such it seems to us perfectly clear that the answer of the learned judge of the court below to the point was correct. He said the point would be well taken if the contract was that the defendants would insure the plaintiff, or if the rate of premium was to be paid to them as consideration for their service in procuring the insurance. But the court proceeds to say, under the testimony this was not the contract, and the point was inapplicable. It appears to us the learned judge was entirely

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correct in this statement. The plaintiff was examined as a witness and he made no pretence that the defendants undertook to insure him themselves, or that the premium was to be paid to them for insurance by them. On the contrary, the plaintiff testified that the defendants were to obtain policies of insurance for him in certain companies, and the premium was to be paid to the companies. In other words, the actual insurance contracts were to be made with other parties than with the defendants, and those insuring parties were to receive the premiums. This being the case there was no contract of insurance between the plaintiff and defendants, and hence there could be no recovery upon the theory of such a contract. If it was a contract to procure insurance, then, as there was no stipulation for the payment of any compensation by the plaintiff to the defendants for their services in procuring the insurance, there was no consideration for the contract on their part. Of course the premium to be paid was no consideration money to the defendants, because it was to be paid for the insurance itself, and not for procuring it. Moreover, it was to be paid to the insurance companies as the consideration of the contracts with them, and not to the defendants, except only as the agents of the companies. It is suggested that part of the premiums was to go to the defendants, and therefore there was sufficient consideration for their engagement. But, as the learned judge of the court below very well says, the commission to be paid to the defendants was derived from the companies, and was the consideration money from the latter to the defendants as their agents in effecting policies, and if the defendants are to be regarded as the agents of the companies in the transaction, the cause of action would be against the companies for failure to deliver the policies, and not against their agents. The present action regards the defendants only, and in their individual capacity, and proceeds upon the idea that they failed to procure insurance, but are nevertheless, liable as effectively as if policies had been executed and premiums paid. But it is evident that upon that aspect of the case there could not possibly be any consideration money to the defendants out of the premiums, since, if there were no premiums, there was nothing upon which any commission could be paid. We see nothing in the case but

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mere *non-feasance* of an executory promise, which was *nudum pactum*, and this confers no right of action. There was no error in the rejection of the testimony covered by the first assignment, but even if there had been it was covered by the subsequent admission of all of it that was material.

Judgment affirmed.

A. Farnham and A. Ricketts, Esqs., for plaintiff in error.

G. M. Harding, Esq., and Messrs. Palmer, De Witt, and Fuller, for defendants in error.

Court of Quarter Sessions of Luzerne County.

IN RE SIMON ARNOLD.

Constable—Removal from office.

1. Where a constable fails to appear and make his returns of persons engaged in the sale of liquors, he may, in this county, be removed from office, under the act of March 12th, 1866.

2. Absence from the county on private and unofficial business is not a sufficient excuse for neglect in this particular, especially if he has received notice in due form to return certain alleged violators of the liquor laws.

The opinion of the court was delivered October 13, 1884, by

RICE, P. J.—Two imperative duties are imposed upon the constables of this county by the act of March 12th, 1866, P. L. 182, P. D. 271, pl. 42: First, to make diligent search for all persons who shall, either directly or indirectly, be engaged in the sale and traffic of liquors, wines, or other strong drinks; second, to make returns thereof to the court of Quarter Sessions of the county. Neglect of either of these duties, without adequate excuse, is cause for removal from office. Manifestly the constable, whatever the result of his "diligent search," must in all cases appear at the regular time to make his returns, for it is made the duty of the court "to make diligent inquiries" of him "of the manner and fidelity with which he has attended to and discharged the requirements" enjoined upon him. It is not required to

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suggest here what excuse for failure to perform these important duties, the court would regard as adequate to acquit the constable of the charge of unfaithfulness; it is enough to say that, in our judgment, voluntary absence from the county on private and unofficial business is not such an excuse. Judged by this rule the answer of the respondent would be insufficient. But the case against him is made much stronger by the admitted fact that he had received due written notice in the form prescribed by the 6th section of the act of April 12, 1875, P. L. 40, to return certain persons who had violated the provisions of that act, and yet notwithstanding this notice, and his additional and special legal obligation on that account, to appear and make his return, he voluntarily left the county and remained away during the sitting of the grand jury, on purely private business. As the case is presented (on petition and answer), we would not be justified in concluding that the respondent wilfully absented himself at the time for making his return in order to evade the performance of an official duty. We are at the same time compelled to declare that his failure to appear and make his returns was, under the admitted circumstances, clearly "unfaithfulness" in the performance of the duties enjoined upon him by the act of assembly.

And now, to wit, October 13, 1884, the facts of the petition being admitted, the rule is made absolute, and the respondent, Simon Arnold, is removed from office as prayed for.

H. W. Palmer, for petition.
James Mahon, for respondent.

In Rolle's Reports, Vol. I. p. 286, in an action for words, the case is, "Home dit, Sir Th. Holt hath taken a cleaver and stricken his cook upon the head, so that one side of the head fell upon one shoulder, and the other upon the other shoulder, et ne averr que le cook fuit mort; et pur ceo fuit adjudge nemy bon"; the cook's death, after the splitting of his head, being matter of inference only. Mr. Wallace says this case may be commended to Mr. Chitty, who may, perhaps, reconcile the matter of pleading involved in it with the doctrines of Medical Jurisprudence.

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SHERIFF'S SALES.

Abstract of property to be sold by J. S. Oberrender, Sheriff of Luzerne county, on Saturday, November 15th, A. D. 1884, at 10 o'clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are numbered, to wit:

1

Suit of John Hance v. Hugh Nolan. Cannon, Att'y.

1. All the equal undivided one-half part of all that lot of land in the city of Wilkes-Barre, beginning at a corner of a lot now or late of C. A. Ziegler, on the southeast side of an alley, thence along said Ziegler lot 90 feet to a corner in line of lot sold by George Smith and wife to Matilda Gibbs, thence along said Gibbs lot 50 feet to a corner, thence 90 feet to said alley, thence along the line of said alley 50 feet to the place of beginning; containing 4,500 square feet of land; coal and other minerals reserved; all improved with a large double 2-story frame building, occupied by two families, a barn, and other smaller outbuildings thereon.

2. All that lot of land beginning at a corner of the lot aforesaid, thence along the line of said Eliza Nolan's lot 90 feet to a corner of lands of Hannah Brooks, thence along said Brooks lot 25 feet to a corner, thence 90 feet to said alley, and thence along the line of said alley 20 feet to the place of beginning; containing 2,250 square feet of land, being part of lot No. 33 in block No. 2 in plot of lots laid out by A. C. Laning; all improved with a large double 2-story frame building, occupied by two families, a barn, and other small outbuildings thereon.

2

Suit of M. Bolin & Co., *v.* Martin McFadden and James Jordan, T. T. Ferris, Att'y.

All that lot of land in the borough of Pittston, containing one-half acre of land, bounded on the north by lands of the Pennsylvania Coal Company, on the east and south by lands of Wisner and Strong, on the west by lands now or late of Patrick Muckler; all improved.

3

Suit of E. A. Hancock v. R. P. Crockett. McLean & Gibbons, Att'ys.

All that piece of land in the township of Ross, beginning at the southwest corner at a post and stones corner in line of lands of George A. Crockett and Judson Wolf, and also being on the south corner of the Emanuel Turner survey of lands, thence along lands of G. A. Crockett 119 8-10 perches to line of lands of David Rood, thence along lands of David Rood 33 4-10 perches to line of lands of Crawford Rood, thence along line of lands of Crawford Rood 8 perches 10 a corner, thence 12 6-10 perches to centre of road, thence along road 24 5-10 perches to a post corner, thence 3 4-10 perches to a corner on east side of creek, thence 60 4-10 perches to a post in road at place where the Harveyville and Broadway road intersect, thence along road 28 4-10 perches to a corner in south line of Emanuel Turner survey, the same being the north line of lands of Judson Wolf, thence along lands of Judson Wolf 42 perches to the place of beginning; containing 32 acres and 69 perches; all improved with 1 2-story frame dwelling house about 25 feet wide and 40 feet long, with outbuildings, 1 barn and carpenter shop.

4

Suit of Payne Pettebone, surviving partner of William Swetland & Co., assigned to John Cosner, v. Jeremiah Cosner, administrator of William Cosner, dec'd. Miller, Att'y.

1. All that lot of land in the township of Kingston bounded on the east by lands of Samuel Atherholt, on the south by lands of the heirs of Isaac Wyant and by lands of Steuben Jenkins, on the west by lands of William Harris and John Harris, and on the north by lands of David Reeves; containing 40 acres more or less; about 30 acres improved with 1 frame story and a half house, 1 barn and outbuildings, and fruit trees thereon.

2. All that lot of land in Kingston township bounded on the east by lands of John Harris, on the north by lands of Isaac Nulton, on the West by lands of John Hay, and on the south by lands of Daniel Heft; containing 70 acres more or less, about 30 acres improved.

5

Suit of Charles Lehman, assigned to R. D. Lacoe, v. Alva Tompkins. Richards, Att'y.

1. All the following lot of land in the borough of West Pittston, beginning at a corner in the southerly line of Montgomery street and at the corner of lot of the estate of William Haston, deceased, thence along said Haston lot 200 feet to lands of the West Pittston Coal Company, thence along said lands 85 feet to lot contracted to Dennis Harris, thence along said lot 200 feet to Montgomery street, and thence along said street 85 feet to the place of beginning; containing 17,000 square feet of land more or less

2. All that lot of land in the borough of West Pittston, beginning at a corner on the southerly side of Montgomery street, thence along said street 100 feet to a corner of lot of Alva Tompkins, thence along said lot 200 feet to the land of the West Pittston Coal Company, thence along said land 100 feet to line of William R. Sax, and thence along said last mentioned lot 200 feet to the place of beginning; containing 20,000 square feet of land more or less.

All improved with a 1½-story wood dwelling house with a concrete 1-story kitchen, and a small barn, and fruit trees thereon, etc. 43-45

1

And on November 22d, 1884, at 10 o'clock A. M., the said Sheriff will sell the following:

Suit of G. H. Welles, assignee, *v.* Winfield S. Parsons and Ellen E. Parsons, his wife. Darlings and Wheaton, Att'ys.

All that piece of land in the city of Wilkes-Barre beginning at a corner on Main street in line of land of A. Voigt, thence along said Main street 105 feet to line of Mrs. M. Ash, thence along the same 242 feet, thence on a line parallel with said Main street 21 feet, thence 70 feet, thence 426 feet to Academy street, thence along same 71 feet, thence 298 feet to a corner, thence 242 feet to the place of beginning; improved with 1 large 2½-story frame dwelling house, 1 other 2-story frame dwelling house, 2 other 2-story small frame dwelling houses, 2 1½-story frame house with lean to, 1 frame barn, 2 other 2-story frame houses, together with fruit trees and other outbuildings thereon.

The said property will be sold in two parcels, as follows, to wit:

One thereof fronting upon Academy street and being about 71 feet in width, front and rear, and about 430 feet in depth; all improved with 1 large 2½-story frame dwelling house, 2 other 2-story frame dwelling houses, 1 other 2-story frame dwelling house, 2 2-story small frame dwelling houses, fruit trees, and outbuildings thereon.

The other thereof fronting upon Main street and being about 105 feet wide in front, 106 feet wide in rear, and about 245 feet in depth; also all improved with 2 1, and ½-story frame dwelling houses, 1 frame barn, together with fruit trees and outbuildings thereon.

2

Suit of John J. Shonk *v.* William Carter. Shonk, Att'y.

All the surface of that lot of land in the borough of Plymouth beginning at a corner of land of Philip Keller on north side of Bead street, thence 110 feet to land formerly of Matthew Beale, thence along the line of said land 50 feet to land now or late of J. W. Weston, thence along the line of said land 110 feet to Bead street, thence along Bead street 50 feet to the beginning; containing 5,500 square feet of surface; the coal, mineral, and mineral ores not being sold, but being owned by John J. Shonk, with the right to mine and remove the same; all improved with 1 1-storied wood dwelling house with wash house in the rear, fruit trees grape vines, and outbuildings thereon. 44-46

ESTATE OF CATHARINE MAY SNYDER, late of Hollenback, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

B. M. ESPY,
43-48 Wilkes-Barre, Pa.

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ORPHANS' COURT SALE.

Estate of Thomas C. Harkness, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Saturday, the 15th day of November, A. D. 1884, at 10 o'clock A. M., the following valuable real estate, to wit:

1. All that lot of land on the westerly side of Franklin street, in the city of Wilkes-Barre, beginning at a corner on said Franklin street by lands of the estate of Frederick McAlpine, deceased, thence by the same 225 feet to a corner of lot of William McDermott, thence by the same and lot of George Farris 42 feet to a corner by lands now or late of E. H. Chase, thence by the same 225 feet to a corner on said Franklin street, thence along said street 42 feet to the place of beginning; containing 9450 square feet of land more or less; improved, with a large 2-story brick dwelling house with mansard roof, and all modern improvements.

2. The surface of all that lot of land in the city of Wilkes-Barre, beginning at a corner of Andover street and Arch street in said city, thence along said Andover street about 880 feet to Grove street, thence along said Grove street about 300 feet to Spring street, thence along said Spring street 608 6-10 feet to Arch street, thence along said Arch street about 403 feet to the place of beginning, being lots Nos. 20 to 35, both included, and lots Nos. 52 to 64, both included, in the plan of lots known as the Lockhart lots.

3. The surface of all that lot of land in the city of Wilkes-Barre, beginning at a corner of Main street and Andover street in said city, thence along said Andover street about 208 feet to a corner on a 24 foot alley, thence along said alley about 155 feet to a corner on lot No. 90 in the plot hereinafter referred to, thence along said lot No. 90 about 200 feet to a corner on said Main street, thence along said Main street about 100 feet to the place of beginning, being lots Nos. 88 and 89 in the plan of lots known as the Lockhart lots. Lot No. 88 is improved with a frame dwelling house.

TERMS OF SALE.—On piece No 1, one-fourth down on day of sale, one-fourth on confirmation of sale and delivery of deed, and the balance, with interest, from confirmation as follows: one-half of balance in six months, and remainder in one year from confirmation. As to pieces Nos. 2 and 3, $25 on each lot down, $25 on confirmation of sale and delivery of deed, and balance, with interest, from confirmation as follows: one-half of balance in one year, and remainder in two years from confirmation. Pieces Nos. 2 and 3 will be sold either in single lots or in blocks. Deferred payments in all cases to be secured by bond and mortgage on the premises.

ISAAC LIVINGSTON,
Administrator.

E. S. OSBORNE,
R. D. EVANS,
Attorneys.

45-47

ORPHANS' COURT OF LUZERNE COUNTY.

Estate of John R. Brodhead, late of Buck township, Luzerne county and state of Pennsylvania, deceased. Now, 18th day of October, A. D. 1884, court grant rule upon the heirs and other parties interested in the partition of the estate of said decedent to appear in open court on the 17th day of November, A. D. 1884, at 10 o'clock A. M., and accept or refuse the real estate at the valuation fixed by return of inquest, or make bids on the same, or show cause why the same shall not be sold on their neglect or refusal to accept the same. In pursuance of the above order notice is hereby given to Cyrus Brodhead, Phillipsburg, Centre county, Pa.; Rachel Brodhead, Sauk Rapids, Benton county, Minn.; Nellie E. Stanchfield, Bethel, Anoka county, Minn.; Effie E. Stanchfield, Anoka, Anoka county, Minn.; Ward O. Brodhead, Russel W. Brodhead, Mary K. Brodhead, Steel J. Brodhead, Worth O. Brodhead, all of Sauk Rapids, Benton county, Minn., and all others interested, to appear in Orphans' Court on the 17th day of November, A. D. 1884, at 10 o'clock A. M., in accordance with said order of the Orphans' Court.

JOSEPH HENDLER,
Clerk O. C.

J. S. HARDING,
Attorney.

43-45

ORPHANS' COURT SALE.

Estate of Elizabeth Whitmore deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, on Saturday, November 22, 1884, at 2 o'clock P. M., the following pieces of land in the borough of West Pittston:

The first thereof beginning at a corner of Exeter and Washington streets, thence along Exeter street 80 feet to a corner, thence 149 feet to a corner, thence 80 feet to a corner on Washington street aforesaid, and thence along Washington street 149 feet to the place of beginning; containing 11,940 square feet of land more or less; all improved with a 1½-story wood dwelling house and outbuildings thereon.

The second thereof beginning at a corner on the easterly side of Washington street, also at a corner of lot now or late of T. W. Kyte, thence along Washington street 58 feet to a corner, thence along other lands of Elizabeth Whitmore, deceased, 80 feet to a corner, thence 58 feet to a corner, and thence along said lot of T. W. Kyte 80 feet to the place of beginning; containing 4,640 square feet of land more or less; all improved with a 2-story wood dwelling house and outbuildings thereon.

Coal and mining rights as to both lots reserved.

TERMS OF SALE.—One-fourth down, one-fourth on confirmation of sale, and balance in one year from day of sale, with interest from the confirmation. Deferred payment to be secured by bond and mortgage on the premises.

FRANCIS YATES,
Trustee.

G. S. FERRIS,
Attorney.

44-46

ORPHANS' COURT SALE.

Estate of Daniel Brown, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Saturday, November 22, 1884, at 2 o'clock P. M., the following real estate:

All that lot of land in Sugarloaf township beginning at a corner of Catharine Geisinger, thence 79 3-10 perches, thence 68 perches, thence 61 8-10 perches, thence 7 perches, thence 34 perches, and thence 71 9-10 perches to place of beginning; containing 38 acres 130 perches of land more or less; improved with a brick house, frame barn, and outbuilding.

TERMS OF SALE.—One-half down and balance on confirmation and delivery of deed.

WILLIAM H. BROWN,
Administrator d. b. n.

G. L. HALSEY,
Attorney.

44-46

ESTATES TO BE AUDITED BY THE Orphans' Court of Luzerne county. Notice is hereby given that accounts have been filed and confirmed absolutely by the court in the following estates:

1. Justus Reinbach; William Kauffman, executor, 24th November, 1884.

2. Ann Margaretta Dutte; John Kauffman, administrator; 24th November, 1884.

3. Thomas Seybert; Benjamin Evans, trustee; 25th November, 1884.

4 Daniel Harding; Giles Harding and Peter Sutton, executors; 25th November, 1884.

5. Margaretta Rittersbacher; Frederick G. Smith administrator; 26th November, 1884.

6. Andrew Belles; William Belles, executor; 26th

7. William Abbott; Charles A. Miner, administrator; 28th November, 1884.

8. Barney Hunsinger; Samuel Benner, administrator; 28th November, 1884.

The accounts enumerated and designated in the above list will be audited by the court, in the Court House, in the Orphans' Court room, during the session of court on the days set forth opposite the name of each estate, at which time all persons interested shall attend, if they see fit, and present their claims against said estate, or forever thereafter be debarred from coming upon said fund.

JOSEPH HENDLER,
Clerk O. C.

45-47

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LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 28, May term, 1884. Libel in divorce a vinculo matrimonii, Lizzie Straw, by her next friend and father, T. M. Casselberry, *v.* Edward Straw. The alias subpoena in the above case having been returned, "That the said Edward Straw cannot be found in Luzerne county." You, the said Edward Straw, respondent, are required to appear on Monday, November 17, A. D. 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
C. W. KLINE, Sheriff.
Attorney. 41-45

AUDITOR'S NOTICE.
The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county, to make distribution of proceeds of Sheriff's sale of the real estate of Solomon Heller, hereby gives notice, that he will attend to the duties of his appointment, at the office of Justice Gorman, Wyoming street, Hazleton, Pa., on Wednesday, the 19th day of November, A. D. 1884, at 10 o'clock A. M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

J. A. GORMAN,
43-46 Auditor.

WIDOWS' APPRAISEMENTS.
Notice is hereby given to all persons concerned, that widows' appraisements in the following estates have been approved nisi by the Orphans' Court of Luzerne county, and, unless exceptions are filed, will be presented for final approval on Monday, the 17th day of November, 1884:
Martin Murphy, deceased.

JOSEPH HENDLER,
44-46 Clerk O. C.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Wolf Doninger, and that said license will be asked for in the court aforesaid, on Monday, December 1st, 1884, at 10 o'clock A. M.

D. M. JONES,
45-46 Solicitor.

IN COMMON PLEAS, No. 397, October term, 1883. Take notice that W. G. Gregory, trustee in partition of the real estate of Roswell Trumbell, late of Black Creek, deceased, has filed his final account, and distribution of the funds, and all persons will be debarred from participating in the fund other than as therein named, unless exception be filed before November 17th, 1884.

Q. A. GATES,
42-45 Attorney for Estate.

ESTATE OF DANIEL S. BENNET, LATE OF Wilkes-Barre, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands, to present the same, without delay, to

MAGGIE M. BENNET,
F. W. WHEATON, Wilkes-Barre, Pa.
Attorney. 40-45

ESTATE OF THOMAS GILES, LATE OF Hazleton, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH A. GILES,
CHARLES BOMBOY,
GEO. H. TROUTMAN, Hazleton.
44-49 Attorney.

ESTATE OF MICHAEL READING, LATE OF Wilkes-Barre, Pa., deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

THOMAS F. SHERIDAN,
P. H. CAMPBELL, Wilkes-Barre, Pa.
Attorney. 43-48

ESTATE OF GEORGE ENGLER, LATE OF Dorrance township, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELDRIGE ENGLER,
C. D. FOSTER, Wilkes-Barre. Pa.
41-46 Attorney.

ESTATE OF WILHELMINA REICHARD, Late of Wilkes-Barre, deceased.
Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEO. N. REICHARD,
E. S. OSBORNE, Wilkes-Barre, Ba.
Attorney. 42-47

ESTATE OF SARAH C. WAGNER, LATE OF White Haven, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EDWARD TATTERSHALL,
GUSTAV HAHN, White Haven, Pa.
Attorney. 42-47

ESTATE OF DANIEL SCURRY, LATE OF Carbondale, Lackawanna county. deceased.
Letters of administration *cum testamento annexo, de bonis non* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

DANIEL SCURRY,
J. E. BURR, Carbondale, Pa.
Attorney. 41-47

ESTATE OF DANIEL K. MEADS, LATE OF Wilkes-Barre, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

FRANCIS A. PHELPS,
E. P. & J. V. DARLING, Wilkes-Barre, Pa.
Attorneys. 40-45

ESTATE OF LYMAN KRESGE, LATE OF Bear Creek township, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

AMANDUS KRESGE,
E. P. & J. V. DARLING, Miner's Mills, Pa.
Attorneys. 40-45

CHAS. D. FOSTER,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

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ESTATE OF ROBINSON BOYD, LATE OF Luzerne, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES M. BOYD,
45-50 Luzerne, Pa.

ESTATE OF MARY QUINN, LATE OF JENkins township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MICHAEL QUINN,
45-50 Port Blanchard.

ESTATE OF PETER HUSHBUT, LATE OF Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HENRY HUSHBUT,
45-50 Pittston, Pa.

ESTATE OF MICHAEL MALIA, LATE OF Pittston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BRIDGET MALIA,
42-47 Pittston, Pa.

ESTATE OF JAMES LOMISON, LATE OF Salem township, deceased.

Letters of administration *cum testamento annexo, de bonis non* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HIRAM ECKROTH,
41-46 Mifflinville, Pa.

WILLIAM S. McLEAN,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

W. S. PARSONS,

ALDERMAN,

WILKES-BARRE, PA.

ESTATE OF ELEANOR B. BEAUMONT, deceased.

Notice is hereby given that letters testamentary in the said estate have been duly granted to the undersigned by the Register of Wills of the county of Lebanon, where the said testatrix resided at the time of her death, and that all persons indebted to the said estate will make payment thereof, and all persons having claims thereon, will present the same for payment to

EUGENE B. BEAUMONT,
Executor, Wilkes-Barre, Pa.
E. P. & J. V. DARLING,
41-46 Attorneys.

ESTATE OF JOHN REICHARD, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE N. REICHARD,
JOHN REICHARD, JUN.,
42-47 E. S. OSBORNE.

ESTATE OF MARY H. WILLIAMSON, LATE of Wilkes-Barre, Pa., deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. R. BRUNDAGE,
43-48 Wilkes-Barre, Pa.

ESTATE OF CONRAD SCHURCHARD, LATE of Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES ERMICH,
40-45 Hazleton, Pa.

ESTATE OF ANN CRANSTON, LATE OF Pleasant Valley, deceased

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

JAMES CRANSTON,
DAVID CRANSTON,
41-46 Marr, Pa.

ESTATE OF JOHN JONES, LATE OF HAzleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH RUDDICK.
45-50 Executrix.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, NOVEMBER 14, 1884. No. 46.

Court of Common Pleas of Luzerne County.

MERCHANTS' AND MECHANICS' BANK *v.* MAY.

The court will not open a judgment by confession where the defendant *inter alia* waives "*all bankrupt laws of the United States, which are now in force, or that may hereafter be in force,*" for the purpose of allowing the defendant to plead his discharge in bankruptcy as a defense to the judgment.

Rule to show cause why judgment shall not be opened to allow the defendant to plead his discharge in bankruptcy as a defense thereto, etc.

The opinion of the court was delivered October 27, 1884, by

WOODWARD, J.—On February 9, 1877, M. D. May executed and dlivered to the Merchants' and Mechanics' Bank of Scranton, his judgment note for nineteen hundred and fifty dollars, payable ten days after date. This note contained the following: "And do further waive all rights under the exemption laws of the commonwealth of Pennsylvania, *and all bankrupt laws of the United States which are now in force, or that may hereafter be in force, etc.*" On February 10, 1877, judgment was duly entered upon the note in the prothonotary's office of Luzerne county. On August 26, 1878, M. D. May filed his petition in bankruptcy in the district court of the United States for the western district of Pennsylvania, and that court, on June 15, 1883, ordered and decreed that the said Michael D. May be forever discharged from all debts which existed on August 26, 1878, on which day the petition for adjudication was filed by him; *excepting such debts, if any, as are by law excepted from the operation of a discharge in bankruptcy.* No

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depositions have been submitted to us, but it is admitted that the judgment of the Merchants' and Mechanics' Bank was not proved before the register in bankruptcy, and that it did not participate in the distribution. Is the discharge in bankruptcy a defense to the collection of the judgment? and should the judgment be opened to allow the defendant to plead his discharge? These are the questions before us, and, as there is no dispute about the facts, our disposition of the rule to show cause will be final. In other words, this is not a case which, in any event, will call for the intervention of a jury. Let it be observed at the outset, that this application to open the judgment comes from the defendant himself. There is no allegation of fraud or mistake affecting third parties, and the naked question, therefore, is, whether the waiver of all wrights under the bankrupt laws of the United States, was a contract which the defendant was at liberty to make with the bank, whose debtor he was. The learned counsel for the defendant argues that it is against public policy to support such a waiver, and that, for this reason, it should be held of no effect. Our attention is called to the case of Firmstone *et al. v.* Mack, 13 Wr. 387, where the question presented was, as to the right of aldermen and justices of the peace to attach the wages of labor under the act of April 15, 1845, in a case where the maker of a note had waived the exemption. The Supreme Court held the waiver to be void, but on the ground that the act which gave the magistrate jurisdiction in cases of attachment, expressly provided, that wages of laborers and salaries should not be liable to attachment in the hands of the employer. In other words, it was held, that jurisdiction being statutory, it must be restricted within statutory bounds, and could not be enlarged by waiver or consent. In Bowman *v.* Smiley, 7 Casey, 226, our Supreme Court says: "Notwithstanding the doubts which have sometimes been expressed, it is now generally conceded that the statutory privilege of the exemption of a portion of his property from levy and sale under execution, is one which a debtor may waive. When made at the time the debt was created, the waiver is based upon the same consideration as that upon which rests the liability to pay, and is therefore irrevocable." The petition for the benefit of the bankrupt law by the defendant, was the voluntary exercise by him

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of a personal right. Eighteen months before this he had, in the exercise of another personal right, executed and delivered to the plaintiffs in this case, a promissory note containing the waiver now complained of. Upon what principle of equity can we be asked to hold that the one act was not as binding and legal as the other? There are many cases in which it has been held that a bankrupt may or may not plead his discharge to defeat action brought against him by his creditors. A man is not bound to avail himself of technical defenses to honest debts, and no true public policy would compel him to interpose them. In the case of Jenks *v.* Opp, 12 Nat. Bank, R. Reports, 22, the court say "a discharge in bankruptcy does not *per se* operate as a discharge of all the bankrupt's debts, * * * it is a personal privilege which the bankrupt may or may not set up as a defense to the action." See also Kingston *v.* Wharton, 2 S. & R. 208. There are doubtless several classes of contracts, which courts of equity will refuse to enforce. Such are those enumerated by Judge Story, in chapter VII. of his Equity Jurisprudence, as contracts which are tainted with constructive fraud, and contrary to some general public policy, or fixed artificial policy of the law. He mentions, among others, contracts in restraint of marriage, or of trade, or agreements not to bid at public auction; contracts for buying public offices; cases of usury where the contract is void because of a statute; gaming contracts; agreements in violation of trust or of the statute of 13 Elizabeth; in regard to fraudulent conveyances.

We are of the opinion, in conclusion, that the right of a party to waive the benefits of the bankrupt laws, under such circumstances as mark the case before us, is a personal right which we cannot disturb. We are unable to see that it stands on any different or less secure footing than the right to waive the benefits of exemption or inquisition laws; or the right to appeal, or to a trial by jury.

The rule to open the judgment is discharged.

L. Ammerman, for plaintiff.

D. W. Connolly and J. Alton Davis, *contra.*

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A GREAT NEWSPAPER.

The *Pall Mall Gazette*, of London, England, did not overstate the case when it said that *The New York Independent* is "one of the ablest weeklies in existence." It is as overwhelming as a monthly or quarterly magazine, with all the matter in its many departments. Any monthly might, indeed, be proud if it could show as distinguished a list of contributors as *The Independent*. In a single department—its story department—we find, among Englishmen, such contributors as Sir Samuel W. Baker, the celebrated Egyptian explorer; Thomas Hardy, W. E. Norris, James Payn, F. W. Robinson, and Henry W. Lucy, the well-known and deservedly popular novelists; while among Americans we notice the names of Edward Everett Hale, Frank R. Stockton, H. H. Boyesen, Sarah O. Jewett, J. S., of Dale, Rebecca Harding Davis, and Harriet Prescott Spofford. *The Independent* printed also, recently, the last story from the pen of the late Ivan Tourgeneff, having secured the only translation from the Russian into English. This department is a sample of the others. It would seem to us that *The Independent* offers, not only "fifty-two dividends during the year," but, in addition, a stock dividend with each department. We advise our readers to send for a free sample copy.

Cooper brought an action upon the case against Witham and his wife, for that the wife maliciously intending to marry him, did often affirm that she was sole and unmarried, and importuned et strenue requisivit the plaintiff to marry her; to which affirmation he gave credit, and married her, when in facto she was wife to the defendant; so that the plaintiff was much troubled in mind, and put to great charges, and much damnified in his reputation. He had a verdict, but no judgment; for by Twisden Justice the action lies not, because the thing here done is felony: no more than if a servant be killed, the master cannot have an action per quod servitium amisit, quod curia concessit.

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SHERIFF'S SALES.

Abstract of property to be sold by J. S. Oberrender, Sheriff of Luzerne county, on Saturday, November 15th, A. D. 1884, at 10 o'clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are numbered, to wit:

1

Suit of M. Bolin & Co., *v.* Martin McFadden and James Jordan, T T. Ferris, Att'y.

All that lot of land in the borough of Pittston, containing one-half acre of land, bounded on the north by lands of the Pennsylvania Coal Company, on the east and south by lands of Wisner and Strong, on the west by lands now or late of Patrick Muckler; all improved.

1

And on November 22d, 1884, at 10 o'clock A. M., the said Sheriff willsell the following:

Suit of G. H. Welles, assignee, *v.* Winfield S. Parsons and Ellen E. Parsons, his wife.
Darlings and Wheaton, Att'ys.

All that piece of land in the city of Wilkes-Barre beginning at a corner on Main street in line of land of A. Voigt, thence along said Main street 105 feet to line of Mrs. M. Ash, thence along the same 242 feet, thence on a line parallel with said Main street 21 feet, thence 70 feet, thence 426 feet to Academy street, thence along same 71 feet, thence 298 feet to a corner, thence 242 feet to the place of beginning; improved with 1 large 2½-story frame dwelling house, 1 other 2-story frame dwelling house, 2 other 2-story small frame dwelling houses, 2 1½-story frame house with lean to, 1 frame barn, 2 other 2-story frame houses, together with fruit trees and other outbuildings thereon.

The said property will be sold in two parcels, as follows, to wit:

One thereof fronting upon Academy street and being about 71 feet in width, front and rear, and about 430 feet in depth; all improved with 1 large 2½-story frame dwelling house, 2 other 2-story frame dwelling houses, 1 other 2-story frame dwelling house, 2 2-story small frame dwelling houses, fruit trees, and outbuildings thereon.

The other thereof fronting upon Main street and being about 105 feet wide in front, 106 feet wide in rear, and about 245 feet in depth; also all improved with 2 1, and ½-story frame dwelling houses, 1 frame barn, together with fruit trees and outbuildings thereon.

2

Suit of John J. Shonk *v.* William Carter.
Shonk, Att'y.

All the surface of that lot of land in the borough of Plymouth beginning at a corner of land of Philip Keller on north side of Bead street, thence 110 feet to land formerly of Matthew Beale, thence along the line of said land 50 feet to land now or late of J. W. Weston, thence along the line of said land 110 feet to Bead street, thence along Bead street 50 feet to the beginning; containing 5,500 square feet of surface; the coal, mineral, and mineral ores not being sold, but being owned by John J. Shonk, with the right to mine and remove the same; all improved with 1 1-storied wood dwelling house with wash house in the rear, fruit trees grape vines, and outbuildings thereon. 44-46

ORPHANS' COURT SALE.

Estate of Thomas C. Harkness, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Saturday, the 15th day of November, A. D. 1884, at 10 o'clock A. M., the following valuable real estate, to wit:

1. All that lot of land on the westerly side of Franklin street, in the city of Wilkes-Barre, beginning at a corner on said Franklin street by lands of the estate of Frederick McAlpine, deceased, thence by the same 225 feet to a corner of lot of William McDermott, thence by the same and lot of George Farris 42 feet to a corner by lands now or late of E. H. Chase, thence by the same 225 feet to a corner on said Franklin street, thence along said street 42 feet to the place of beginning; containing 9450 square feet of land more or less; improved, with a large 2-story brick dwelling house with mansard roof, and all modern improvements.

2. The surface of all that lot of land in the city of Wilkes-Barre, beginning at a corner of Andover street and Arch street in said city, thence along said Andover street about 880 feet to Grove street, thence along said Grove street about 300 feet to Spring street, thence along said Spring street 608 6-10 feet to Arch street, thence along said Arch street about 403 feet to the place of beginning, being lots Nos. 20 to 35, both included, and lots Nos. 52 to 64, both included, in the plan of lots known as the Lockhart lots.

3. The surface of all that lot of land in the city of Wilkes-Barre, beginning at a corner of Main street and Andover street in said city, thence along said Andover street about 208 feet to a corner on a 24 foot alley, thence along said alley about 155 feet to a corner on lot No. 90 in the plot hereinafter referred to, thence along said lot No. 90 about 200 feet to a corner on said Main street, thence along said Main street about 100 feet to the place of beginning, being lots Nos. 88 and 89 in the plan of lots known as the Lockhart lots. Lot No. 88 is improved with a frame dwelling house.

TERMS OF SALE.—On piece No. 1, one-fourth down on day of sale, one-fourth on confirmation of sale and delivery of deed, and the balance, with interest, from confirmation as follows: one-half of balance in six months, and remainder in one year from confirmation. As to pieces Nos. 2 and 3, $25 on each lot down, $25 on confirmation of sale and delivery of deed, and balance, with interest, from confirmation as follows: one-half of balance in one year, and remainder in two years from confirmation. Pieces Nos. 2 and 3 will be sold either in single lots or in blocks. Deferred payments in all cases to be secured by bond and mortgage on the premises.

ISAAC LIVINGSTON,
Administrator.

E. S. OSBORNE,
R. D. EVANS,
Attorneys. 45-47

ORPHANS' COURT SALE.

Estate of Elizabeth Whitmore deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, on Saturday, November 22, 1884, at 2 o'clock P. M., the following pieces of land in the borough of West Pittston:

The first thereof beginning at a corner of Exeter and Washington streets, thence along Exeter street 80 feet to a corner, thence 149 feet to a corner, thence 80 feet to a corner on Washington street aforesaid, and thence along Washington street 149 feet to the place of beginning; containing 11,940 square feet of land more or less; all improved with a 1½-story wood dwelling house and outbuildings thereon.

The second thereof beginning at a corner on the easterly side of Washington street, also at a corner of lot now or late of T. W. Kyte, thence along Washington street 58 feet to a corner, thence along other lands of Elizabeth Whitmore, deceased, 80 feet to a corner, thence 58 feet to a corner, and thence along said lot of T. W. Kyte 80 feet to the place of beginning; containing 4,640 square feet of land more or less; all improved with a 2-story wood dwelling house and outbuildings thereon.

Coal and mining rights as to both lots reserved.

TERMS OF SALE.—One-fourth down, one-fourth on confirmation of sale, and balance in one year from day of sale, with interest from the confirmation. Deferred payment to be secured by bond and mortgage on the premises.

FRANCIS YATES,
Trustee.

G. S. FERRIS,
Attorney. 44-46

WIDOWS' APPRAISEMENTS.

Notice is hereby given to all persons concerned, that widows' appraisements in the following estates have been approved nisi by the Orphans' Court of Luzerne county, and, unless exceptions are filed, will be presented for final approval on Monday, the 17th day of November, 1884:

Martin Murphy, deceased.

JOSEPH HENDLER,
Clerk O. C.
44-46

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FIFTY-TWO DIVIDENDS!

THE INDEPENDENT

of New York, is acknowledged to be what the *Pall Mall Gazette*, of London, says it is, "one of the ablest weeklies in existence." It occupies two fields—religious and literary.

It publishes each week from TWENTY-FIVE TO THIRTY-THREE per cent. more reading matter than any of its contemporaries. With the exception of its column of "Selections," every line in every issue is NEW, ORIGINAL MATTER, WRITTEN EXPRESSLY FOR IT. It pays more each week for literary matter than any three of its contemporaries put together. It has the LARGEST and BEST corps of contributors of any periodical in the world. It is undenominational in religion, and unsurpassed in literary ability. Its reviews of books are unexcelled in journalism. Its Editorials are fearless. Its departments of Science and Biblical Research give valuable information unobtainable elsewhere. Its Market Reports and Commercial Matters are eagerly sought for by those wanting correct information upon those subjects. Its department for "Old and Young," is filled with articles in prose and poetry.

THE INDEPENDENT

has twenty-two distinct departments, edited by twenty-two specialists, which include Biblical Research, Sanitary, Fine Arts, Music, Science, Pebbles, Personalities, Ministerial Register, Hymn Notes, School and College, Literature, Religious Intelligence, Missions, Sunday-School, News of the week, Finance, Commerce, Insurance, Stories, Puzzles, Selections and Agriculture. Thirty-two pages in all.

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P.-O. Box 2787, New York.

ORPHANS' COURT SALE.

Estate of Daniel Brown, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Saturday, November 22, 1884, at 2 o'clock P. M., the following real estate:

All that lot of land in Sugarloaf township beginning at a corner of Catharine Geisinger, thence 79 3-10 perches, thence 68 perches, thence 61 8-10 perches, thence 7 perches, thence 34 perches, and thence 71 9-10 perches to place of beginning; coutaining 38 acres 130 perches of land more or less; improved with a brick house, frame barn, and outbuilding.

TERMS OF SALE. — One-half down and balance on confirmation and delivery of deed.

WILLIAM H. BROWN,
G. L. HALSEY, Administrator d. b. n.
Attorney. 44-46

ESTATES TO BE AUDITED BY THE Orphans' Court of Luzerne county. Notice is hereby given that accounts have been filed and confirmed absolutely by the court in the following estates:

1. Justus Reinbach; William Kauffman, executor; 24th November, 1884.
2. Ann Margaretta Dutte; John Kauffman, administrator; 24th November, 1884.
3. Thomas Seybert; Benjamin Evans, trustee; 25th November, 1884.
4. Daniel Harding; Giles Harding and Peter Sutton, executors; 25th November, 1884.
5. Margaretta Rittersbacher; Frederick G. Smith, administrator; 26th November, 1884.
6. Andrew Belles; William Belles, executor; 26th
7. William Abbott; Charles A. Miner, administrator; 28th November, 1884.
8. Barney Hunsinger; Samuel Benner, administrator; 28th November, 1884.

The accounts enumerated and designated in the above list will be audited by the court, in the Court House, in the Orphans' Court room, during the session of court on the days set forth opposite the name of each estate, at which time all persons interested shall attend, if they see fit, and present their claims against said estate, or forever thereafter be debarred from coming upon said fund.

JOSEPH HENDLER,
45-47 Clerk O. C.

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 28, May term, 1884. Libel in divorce a vinculo matrimonii, Lizzie Straw, by her next friend and father, T. M. Casselberry, *v.* Edward Straw. The alias subpoena in the above case having been returned, "That the said Edward Straw cannot be found in Luzerne county." You, the said Edward Straw, respondent, are required to appear on Monday, November 17, A. D. 1884, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
C. W. KLINF, Sheriff.
Attorney. 41-46

AUDITOR'S NOTICE.

The undersigned, an Auditor, appointed by the Court of Common Pleas of Luzerne county, to make distribution of proceeds of Sheriff's sale of the real estate of Solomon Heller, hereby gives notice, that he will attend to the duties of his appointment, at the office of Justice Gorman, Wyoming street, Hazleton, Pa., on Wednesday, the 19th day of November, A. D. 1884, at 10 o'clock A. M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

J. A. GORMAN,
43-46 Auditor.

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NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Jacob Groh, and that said license will be asked for in the court aforesaid, on Monday, December 1st, 1884, at 10 o'clock A. M.

D. M. JONES,
46-47 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by John Brown, and that said license will be asked for in the court aforesaid, on Monday, December 1st, 1884, at 10 o'clock A. M.

B. McMANUS,
46-47 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Louis Dunie, and that said license will be asked for in the court aforesaid, on Monday, December 1ts, 1884, at 10 o'clock A. M.

S. J. STRAUSS,
46-47 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Wolf Doninger, and that said license will be asked for in the court aforesaid, on Monday, December 1st, 1884, at 10 o'clock A. M.

D. M. JONES,
45-46 Solicitor.

HENRY R. LINDERMAN,
a member of the Bar of Monroe county, will apply for admission at November term, 1884, to practice as an attorney in the several courts of Luzerne county. 46-48

HARRY HALSEY,
a member of the Bar of Philadelphia county, will apply for admission at November term, 1884, to practice as an attorney in the several courts of Luzerne county. 46-48

ESTATE OF THOMAS GILES, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH A. GILES,
CHARLES BOMBOY,
GEO. H. TROUTMAN, Hazleton.
44-49 Attorney.

ESTATE OF ANN CRANSTON, LATE OF Pleasant Valley, deceased

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

JAMES CRANSTON,
DAVID CRANSTON,
41-46 Marr, Pa.

ESTATE OF JOHN REICHARD, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE N. REICHARD,
JOHN REICHARD, JUN.,
42-47 E. S. OSBORNE.

ESTATE OF ELEANOR B. BEAUMONT deceased.

Notice is hereby given that letters testamentary in the said estate have been duly granted to the undersigned by the Register of Wills of the county of Lebanon, where the said testatrix resided at the time of her death, and that all persons indebted to the said estate will make payment thereof, and all persons having claims thereon, will present the same for payment to

EUGENE B. BEAUMONT,
Executor, Wilkes-Barre, Pa.
E. P. & J. V. DARLING,
41-46 Attorneys.

ESTATE OF MARY H. WILLIAMSON, LATE of Wilkes-Barre, Pa., deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. R. BRUNDAGE,
43-48 Wilkes-Barre, Pa.

ESTATE OF JOHN JONES, LATE OF HAzleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH RUDDICK.
45-50 Executrix.

ESTATE OF RODMAN C. BROWNING, LATE of Kingston horough, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands, to present the same, without delay, to

ELIZABETH S. BROWNING,
H. W. DUNNING, Kingston, Pa.
46-51 Attorney.

ESTATE OF HENRY KANE, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY KANE,
46-51 Wilkes-Barre, Pa.

ESTATE OF DAVID SCOTT KIDDER, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES H. KIDDER,
46-51 Wilkes-Barre, Pa.

ESTATE OF PENELOPE E. B. CRAWFORD, late of Cincinnati, Ohio, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

OSCAR J. HARVEY,
46-51 Wilkes-Barre, Pa.

ESTATE OF WILHELMINA REICHARD, Late of Wilkes-Barre, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEO. N. REICHARD,
E. S. OSBORNE, Wilkes-Barre, Pa.
Attorney. 42-47

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ESTATE OF MICHAEL READING, LATE OF Wilkes-Barre, Pa., deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

THOMAS F. SHERIDAN,
P. H. CAMPBELL, Wilkes-Barre, Pa.
Attorney. 43-48

ESTATE OF GEORGE ENGLER, LATE OF Dorrance township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELDRIGE ENGLER,
C. D. FOSTER, Wilkes-Barre. Pa.
41-46 Attorney.

ESTATE OF MICHAEL MALIA, LATE OF Pittston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BRIDGET MALIA,
42-47 Pittston, Pa.

ESTATE OF JAMES LOMISON, LATE OF Salem township, deceased.

Letters of administration *cum testamento annexo, de bonis non* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HIRAM ECKROTH,
41-46 Mifflinville, Pa.

ESTATE OF PETER HUSHBUT, LATE OF Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HENRY HUSHBUT,
45-50 Pittston, Pa.

WILLIAM S. McLEAN,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

ESTATE OF DANIEL SCURRY, LATE OF Carbondale, Lackawanna county. deceased.

Letters of administration *cum testamento annexo, de bonis non* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

DANIEL SCURRY,
J. E. BURR, Carbondale, Pa
Attorney. 41-47

ESTATE OF SARAH C. WAGNER, LATE OF White Haven, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EDWARD TATTERSHALL,
GUSTAV HAHN, White Haven, Pa.
Attorney. 42-47

ESTATE OF CATHARINE MAY SNYDER, late of Hollenback, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

B. M. ESPY,
43-48 Wilkes-Barre, Pa

ESTATE OF ROBINSON BOYD, LATE OF Luzerne, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES M. BOYD,
45-50 Luzerne, Pa.

ESTATE OF MARY QUINN, LATE OF JENkins township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MICHAEL QUINN,
45-50 Port Blanchard.

W. S. PARSONS,

ALDERMAN,

WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, NOVEMBER 21, 1884. NO. 47.

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Court of Common Pleas of Luzerne County.

ACKERMAN *v.* NACHBAR.

Ejectment—Evidence—Mesne profits.

1. The plaintiff's devisor went into possession under a deed from the Lehigh Coal and Navigation Company—the said corporation not having title—and she and those claiming under her held the same for several years, when the defendant, without former possession, title, or color of title, intruded into the possession and enclosed the land with his adjoining premises by a fence. *Held*, that the plaintiff was entitled to recover in ejectment.

2. In estimating the fair rental or annual value of the premises, on a claim for *mesne profits*, the referee or a jury had a right to consider what was their value as a part necessary to the enjoyment of the larger premises, from which it was detached by the defendant's unauthorized act.

Exceptions to referee's report.

The opinion of the court was delivered June 23, 1884, by

RICE, P. J.—The referee has found as matters of fact that the land in controversy was within the purchase of Mrs. Silverstone—under whom the plaintiffs claim by devise—from the Lehigh Coal and Navigation Company; that, while the said corporation had no title, still she and those claiming under her took possession about the time of her purchase in 1872, and held the same until 1877; that the defendant, without former posession, title, or color of title, then intruded into the possession and enclosed the land with his adjoining premises by a fence. These findings of fact are excepted to, but we cannot say that they have no evidence to support them, or that they are so clearly against the evidence as to justify the court in setting them aside. The defendant's first three exceptions are, therefore, overruled. The general rules are that the plaintiff in an action of ejectment must

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recover, if at all, on the strength of his own title, and not on the weakness of the defendant's, and that the latter may defend by showing title in himself, or an outstanding title in a third person. But there are exceptions to these rules, and, under the state of facts found by the referee, we think the cases cited by him and the counsel for the plaintiffs show this case to be within them. The peaceable possession of Mrs. Silverstone under the deed to her, and of these plaintiffs after her death under devise from her, was sufficient to entitle them to recover against a mere intruder who took the same from them by force. Woods *v.* Lane, 2 S. & R.* 57; Hoey *v.* Furman, 1 Barr, 295; Lair *v.* Hunsicker, 4 C. 115; Shumeway *v.* Phillips, 10 H. 151; Kline *v.* Johnston, 12 H. 72; Green *v.* Kellum, 11 H. 254; Kirtland *v.* Hoey, 2 Luz. Leg. Reg. 47. See also Riddle *v.* Murphy, 7 S. & R. 230; Foster *v.* McDevit, 9 W. 341: Mobley *v.* Bruner, 9 Sm. 481. On page 32 in the testimony of Mrs. Ackerman we find the following: "Mr. Nachbar wanted to buy the land himself, and got my son to write a letter to the company for him about it. The company asked such a price as he would not give, and so my sister bought it. Mr. Nachbar said it was too dear at the price she paid. He offered $250." This evidence shows that the defendant knew of Mrs. Silverstone's purchase, and of the price, but we do not think it definitely shows whether he acquired this knowledge before or after she bought. It may, therefore, be fairly questioned whether the referee's third conclusion of law can be sustained, but, inasmuch as the plaintiffs' right of recovery does not depend on that finding, we are not called upon to pursue this inquiry further. The next question raised by the exceptions is as to the report of the referee upon the subject of *mesne* profits. A claim for the same was filed at the time suit was brought, and we do not discover that the evidence upon the subject was objected to when offered; we assume, therefore, that the exceptions were intended to be directed (in case the plaintiffs recover at all) to the amount of the award and the principal upon which it was computed. A claim for *mesne* profits in an action of ejectment is governed by the same general rules that are applicable to ordinary actions of trespass. The recovery is ordinarily for the rent or fair annual value of the premises, and for injury, if

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any, done thereto. Carman *v.* Beam, 7 Nor. 319, 323. But, in estimating the fair rental or annual value of the land in controversy, we think the jury or a referee would not be confined, under the evidence in this case, to its mere rental value as a detached piece, but might legitimately inquire what was its annual value as a part, necessary to the enjoyment of the larger premises, from which it was detached by the defendant's unauthorized act. A more strict application of the general rule would fail to give compensation, which is the general aim of the law in measuring damages. See Morrison *v.* Robinson, 7 C. 456; Huston *v.* Wickersham, 2 W. & S., 308; Kille *v.* Ege, 1 Nor. 102. The final exception is that the referee did not answer the points submitted by the defendant's counsel. While the points are not answered in the order in which they were presented, yet it will be seen, upon an examination of the referee's several findings, that they are all specifically answered. This is all that the statute requires.

The exceptions are overruled, the report of the referee confirmed, and judgment entered thereon in favor of the plaintiffs for the land described in the writ, and also for the sum of two hundred and seventy-five dollars as *mesne* profits, with interest from February 14, 1884, and costs.

A. Ricketts, for plaintiffs.

E. S. Osborne and R. D. Evans, for defendant.

Lewis Wesley De Witt was born in the township of Exeter, Luzerne county, Pa., December 3, 1845. He is a descendant of John De Witt, who was born in Greenwich township, Warren (formerly Sussex) county, N. J., October 29, 1785. He was a soldier of the war of 1812, and was one of the early settlers of the present township of Franklin, having removed there in 1817. Valentine DeWitt, son of John De Witt and father of L. W. De Witt, was born in the present township of Franklin October 8, 1819. He is still living and is one of the most prominent and substantial citizens of his native township. The mother of L. W. De Witt was Ruhamah Lewis, daughter of the late Levi

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Chapman and Hannah (*Shay*) Lewis, of Exeter township. She was born April 5, 1826, and died January 27, 1848. L. W. De Witt was educated in the public schools of his native township and at Wyoming seminary. In his young manhood he taught school in the townships of Franklin, Kingston, and Exeter. In 1867 and 1868 he was principal of the high school at Hyde Park, now a portion of the city of Scranton, Pa. He read law with the firm of Harding & Palmer, of this city, and was admitted to the bar of Luzerne county, December 17, 1870. He is a democrat in politics, but has never filled a political office. Mr. De Witt married October 15, 1872, Harriet Frances Stephens, daughter of the late William P. Stephens, of Hyde Park, Pa. Mr. De Witt has been at the bar about fourteen years, and in that time has secured a large and increasing clientage. He is a safe counsellor and a zealous advocate. No lawyer ever defended the rights of his clients with more vigor and earnestness than Mr. De Witt. He has a calm unobtrusiveness and makes no effort at display.

The history of Pennsylvania is as yet unwritten. When the typical American of to-day, momentarily wearied with the chase after wealth, an establishment, horses, a footman, and all those things which represent his conception of prosperity and practical happiness, stops to inquire, if ever he does, concerning the men who founded his country, who they were, whence they came, and what were the causes which have influenced the development of its civilization, his thoughts invariably turn toward Massachusetts. Plymouth Rock looms up before him vast and imposing, but the Delaware flows by unheeded. He is familiar with the story of the Mayflower and her burden of strange folk destined to a barren shore; it is impressed vividly upon his imagination; but of the Welcome, which sailed over the same sea, bearing a purer people to a better land, he has never heard a whisper. Why the chroniclers who have so energetically and successfully tilled the one field should neglect the other, it is difficult to understand. Surely there is enough of romance to

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please the fancy and much food for rugged thought, in the career of that son of a fighting old English admiral, who forsook the path which seemingly led direct to fame and fortune, and, assuming the quaint ways and plain garb of a despised sect, preached its peaceful faith. Caleb Pusey, going out unarmed into the forest to meet a threatened attack of the savages, is a more heroic figure than blustering Miles Standish, girt with the sword he fought with in Flanders. Lloyd, Logan, and Pastorius, trained in the schools of Europe and versed in all the learning of their day, were men whose peers are rarely found among colonists. The Quaker, the Mennonite, and the Moravian, mindful of how their fathers were harried from place to place, with the prison behind and the stake threatening before, bringing across the ocean with them their Bibles, and often nothing else, with hearts warm enough and a creed broad enough to embrace the religious wayfarer and wanderer, as well as the negro and Indian, contrast favorably with the narrow and intolerant Puritan, whose hand fell heavily upon all of different race, habits, or belief from his own.—*Historical and Biographical Sketches, by Samuel W. Pennypacker, Philadelphia, 1883.*

The first Moravian brethren, who emigrated to this country about the middle of the last century, crossed the ocean at different intervals of time, and in larger or smaller companies. Whenever they had obtained full control of a transport ship, by charter or otherwise, our forefathers never failed to introduce among the passengers on board a complete social and religious organization, corresponding as nearly as might be with that established in their congregations at home; hence the term used in the reports of the day, *die See Gemeinen*, the "sea congregations." Regular times were set apart in these floating congregations for their various religious meetings; chaplains, teachers, exhorters, and nurses were provided, and system was carried into the minutest details of life. Each member was assigned to a mess and hammock company, and his place and duty in every contingency were designated. They all felt that they formed a united band of followers of the same Lord, to serve whom in a new field of labor they had forsaken their homes and their native land. The days spent on the ocean were not to be wasted in idleness or inactivity, but

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must be employed in preparing, instructing, and invigorating their minds, and promoting their growth in grace. Although sickness, storms, and other perils of the sea interfered with prescribed rules, yet they carried across the waves, not only their God in their hearts, but some of the most blessed practices and observances they had been accustomed to at home. Ship life proved to them a season of rich mental and spiritual activity and enjoyment, and combined as it was with order and discipline, it had a powerful tendency to increase their bodily comfort and well-being. The first "sea congregation" left London in March and arrived in Philadelphia in June, 1742. Count Zinzendorf himself had preceded them about six months, and during twenty previous months small companies, partly direct from Europe and partly by way of Georgia, had been their forerunners. Some preliminary arrangements for their reception had been made and their arrival was anxiously looked for by about twenty-five or thirty brethren and sisters, resident, for the time being, in Pennsylvania. The responsible task of fitting out and organizing the expedition had been entrusted to Brother Spangenberg, then residing in London, and the selection could not have fallen upon a more suitable individual, for to his other qualifications he joined that of personal experience. Seven years before he had fitted out the first Moravian colony which went to Georgia, had himself accompanied it across the Atlantic, had spent four years in Georgia, Pennsylvania, and the West Indies, and had made several voyages between those colonies, some of which were attended with more than ordinary privations and dangers. He was now, after Zinzendorf's departure, at the head of affairs of the church in England, and had a serious responsibility resting on him. Yet he did not decline the additional weight, but applied himself to his new duty with his accustomed devotedness, alacrity, foresight, and attention to details. The majority of the "sea congregation" consisted of Germans, many of whom had been selected to replace the first colony at Pilgerruh in Holstein, but being refused admission by the government at Copenhagen, they now proceeded to America. They reached London in February, and were not only received and entertained by their local brethren, but in the organization of the "sea con

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gregation," which sailed on the ship Catharine, there were included seven families who joined them there. These included Samuel Powell, with his wife Martha, and Joseph Powell with his wife Martha. After all the perils and hardships and delays of a sea voyage in those days these good brethren landed in this country, the Powells first preaching at New Haven, and holding impressive religious discussion with the students and professors of Yale, and journeying toward New York from New Greenwich on foot, re-uniting with their ship's company in New York harbor, and sailing thence to Philadelphia, from where they journeyed to Bethlehem, the chief of the Moravian settlements.

Revs. Samuel Powell and Joseph Powell were brothers, and the latter was the great-great-grandfather of George Kelsey Powell, the subject of this sketch. Rev. Joseph Powell was born near White Church, Shropshire, England (on the border of Wales), in 1710. He became acquainted with the Moravian brethren through the instrumentality of Wesley and Whitefield, and in 1741 offered to accompany a party of Moravians who were then organizing under Count Zinzendorf to emigrate to this country. He did not, however, emigrate until 1742, having sailed from Gravesend, England, March 19, and reached Philadelphia on June 7, 1742. Before leaving England he married Martha Pritchett, who accompanied him. In 1743, when the Moravian church in Philadelphia, Pa., had been established, he was one of the missionaries employed in that vicinity. In 1747 he was stationed as a missionary at Shamokin (now Sunbury, Pa.). In 1756 he was ordained a regular minister of the Moravian church at Bethlehem, Pa., by the Right Rev. Matthew Hehl, bishop of the church. As an Evangelist he was active and prominent, and faithfully served the holy cause in which he had enlisted, traversing various regions of the country preaching the gospel to the Indians. He was at one time located at Neshaminy, Bucks county, Pa., at other times on Staten Island and Long Island. Again at Dansbury, near the Delaware Water Gap, at Carroll's Manor, Maryland, and at some stations in New England. Six years of his life he spent in Jamaica, in the West Indies, preaching to the negroes and slaves. On all these journeys he was accompanied by his wife and children, until the year 1772, when

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his wife was taken ill at Carroll's Manor. In consequence of her illness the family returned to Bethlehem, where she died May 6, 1774. Soon after this date he was transferred to Nine Partners (or Sichem), Dutchess county, N. Y., where the Moravians had a church and mission. He was accompanied by some of his children, intending this locality to be his permanent and future home. His ministry there was, however, of short duration, as he shortly after died. In 1859 the Moravian Historical society erected a monument above his grave, taking up the stone which his Indian parishoners had set over it, with the inscription of their affection. The following is the inscription on the monument

NORTH SIDE.

Joseph Powell,
a Minister of the Gospel
in the
Church of the United Brethren,
Born 1710,
Near White Church, Shropshire, England,
Died Sept. 23, 1774,
at Sichem, in the Oblong,
Dutchess Co., N. Y.

WEST SIDE.

Erected by the
Moravian Historical Society,
October 6, 1859.

EAST SIDE.

How beautiful upon the mountains
Are the feet of him that bringeth
Good tidings, that publisheth peace,
That bringeth good tidings of good,
That publisheth Salvation.—Isaiah LII., 7.

Mr. Powell left several children, among them Joseph Powell, of Bedford county, Pa. He was born in Bethlehem township, Northampton county about 1750. He was educated for the ministry and was located in Bedford county at the outbreak of the revolution. He served as chaplain to the Bedford county battalion of associators in 1776, and was a member of the convention of July 15 of that year, member of the general assembly

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in 1779 and 1780, and a member of the constitutional convention of 1789 and 1790. He died in November, 1804, in Southampton township, Bedford county, Pa. Another son, Martin Powell, was a Methodist minister. He was the grandfather of Prof. J. W. Powell, of the United States army geological survey. Stephen Powell, another son, was the great-grandfather of George Kelsey Powell. He was a soldier in the revolution, and in 1798 emigrated from Nine Partners to Sheshequin, Luzerne (now Bradford) county, Pa. Sheshequin was the site of an Indian town built after the Pontiac war, at which the Moravians established a mission, on the solicitation of some of the native inhabitants who had belonged to Brainerd's congregations on the Delaware. Mr. Powell located in what is now Ulster township, near Milan on the Susquehanna river, at Powell's Eddy. He married Polly Burge prior to his removal from the state of New York. Joseph C. Powell, son of Stephen Powell, was a farmer and a man of mark. Prominent in the organization of Bradford county, he became quite conspicuous in its politics. When a young man he removed to Troy, Pa., where he engaged in mercantile pursuits. From 1818 to 1820 he was one of the commissioners of Bradford county. In 1821 he was elected sheriff, and served in that position for three years. In 1836 he was appointed prothonotary, clerk of Oyer and Terminer and Quarter Sessions, by Governor Ritner, and held these positions for three years. In 1849 and 1850 he was one of the members of the legislature from Bradford county. He removed to Towanda after his election as sheriff, and resided there until the time of his death in 1854. Joseph Powell, president of the First National bank of Towanda, is one of his sons. From 1874 to 1876 he was a member of congress. In 1883 he was the candidate of the democracy of the state for the position of state treasurer, but was defeated by Silas M. Bailey. John Powell, son of Stephen Powell and brother of Joseph C. Powell, was the grandfather of George K. Powell. He was born in Ulster township, Bradford county, Pa., and, when a young man, removed to Penn Yan, Yates county, N. Y. He was a farmer, and in addition to his work on the farm he carried on a blacksmith and carriage shop. He was an active and prominent member of the Methodist Episcopal

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church. James Smith Powell, the father of George K. Powell, was a native of Penn Yan, N. Y. He entered the Genessee Wesleyan seminary, at Lima, N. Y., but during the prevalence of cholera in 1832 the school was broken up. He was a blacksmith and merchant, and a prominent man in his neighborhood. For over thirty years he was a school director and village trustee. In 1868 he was elected coroner of Yates county for three years, but resigned the office before the expiration of his term. The mother of George K. Powell was Maria Easton, daughter of Charles Easton, of Middlesex, Yates county, N. Y. He was one of the early settlers of Yates county, a farmer and a large land owner. Salina Alcesta Easton, a missionary at Cawnpore, India, under the direction of the Women's Foreign Missionary society of the Methodist Episcopal church, is a sister of the late Mrs. J. S. Powell.

George Kelsey Powell was born at Penn Yan, N. Y., June 10, 1845. He was prepared for college at the Penn Yan academy and entered the Genessee college at Lima, N. Y., since which time the college has been removed to Syracuse, N. Y., and re-named the Syracuse university. Mr. Powell graduated in the class of 1866. After leaving college he went to Beaver, Pa., and was professor of Latin and Greek in the Beaver college and Female institute during a portion of the years 1866 and 1867. In the spring of 1867 he entered the United States navy on board the man-of-war steamer Wateree as captain's clerk. The Wateree was the first iron vessel ever built for our government. Of fair sea-going size, her draught was so light—scarcely more than that of a fishing schooner—that the chances of her safely performing the task allotted her were at least problematical. It was sent by the admiral to most of the small as well as the large ports, hence her officers saw more of the countries than most others. In the summer of 1867 she experienced a "norther" in the bay of Valparaiso, during which several vessels were destroyed and many lives lost. During her cruise in the south Pacific waters, through the kindness of General Hovey, minister to Peru, and General Kilpatrick, minister to Chili, the Wateree's officers enjoyed many advantages when in port for sight-seeing and social intercourse with the natives. While at Arica, a city in southern Peru,

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the great earthquake occurred which destroyed the Wateree. Arica lies nearly one thousand three hundred miles south of the equator, and about four hundred miles south of Lima, the capital of Peru. It had a population of six thousand, and was not only the sea port of Tacna, but in fact of a large part of Bolivia. The amount of foreign merchandise stored there, including quantities of alpaca wool, ores, and cinchona-bark coming down from the interior was very large. All this was lost. The proprietor of the largest warehouse, connected with which was a distillery, returning to the place after the catastrophe, was unable to point out the site of his establishment, the destruction was so complete. The desert hills around Arica are stuffed with desiccated bodies of the ancient Aymaras, who seem to have had here an important fishing station. To these hills the terrified inhabitants of the town fled on the first warnings of danger, there to be met with the appalling spectacle of the grave literally giving up its dead. The convulsed and writhing earth threw to the surface hundreds of the grim, dried bodies of the Indians, who had lived here centuries before, still wrapped in the cerements that the dry and nitrous soil had preserved from decay. Appleton's Annual Cyclopedia for 1868 gives the following account of the earthquake in Peru, which Mr. Powell says is, in the main, correct:

"The first shock (in Peru) was felt at 5:30 P. M. It was preceded by a rumbling sound. An eye witness at Arica says the hour was that when by custom most of the inhabitants had just closed their daily labors and were at their homes. The instant the startling indications of an earthquake were felt, there was a general rush for uncovered spaces, which were reached by many uninjured, but not by all. The streets became a scene of terror. All the houses in the city trembled like a person affected with the ague. Then they surged, and some of them fell to pieces with crash after crash. At this juncture, when the undulations were active, the earth opened in several places in long and almost regular lines. The fissures were from one to three inches in width. The sensation was distinct, as though something were rolling underneath. From every fissure there belched forth dry earth like dust, which was followed by a stifling gas. Owing to the demolition of buildings, and the general destruction of all kinds of property, and the dust thrown out, as well as that set in

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motion by the general tumult, a dense cloud was formed over the city and obscured the light. Beneath the cloud was the gas, which severely oppressed every living creature, and would have suffocated all if it had lingered longer stationary than it did, which was only about ninety seconds. The (severe) undulations were three in number. * * * Three quakes at short intervals succeeded, as though subterranean explosions were taking place. At this time people from all parts of the city fled to the hills amid falling stones and timbers, which descended from swaying walls and broadly rent buildings, just on the eve of crumbling into perfect ruin. Some were struck down dead by the falling materials, and others were maimed, while all were made to stagger from side to side like people in a state of intoxication. Many persons carried children in their arms, and those who had not these carried articles of value. The avarice of some was stronger than fear, even amid this terrible confusion, and hence there were those who delayed their escape to collect valuables, many of whom suffered for their temerity either by the sacrifice of their lives or otherwise. As the rush for the hills continued, and stones and materials of all kinds were falling, and houses were crashing, numerous people were struck down and either killed or dangerously wounded. The number of persons estimated killed at Arica was five hundred, and not a house was left uninjured. All the public edifices were destroyed, including the custom house, which contained four million dollars worth of goods, all of which were lost. The entire damage at Arica was estimated at about twelve million dollars. The waters rose to such a height that a tidal wave forty feet high, rolled with resistless fury upon the ships in the harbor and precipitated them on the main land, far beyond any point ever reached before by the sea. The United States storeship Fredonia, and the United States steamer Wateree were both at anchor in the harbor of Arica near each other. After the first shock had occurred on the land, Dr. Dubois, surgeon, and the paymaster of the Fredonia, took a boat and went on shore to inquire for the welfare of friends and offer the services of the ship. A few moments after leaving the vessel a great upheaving of the waters in the bay commenced, and the Fredonia, parting her chains, was tossed about at the mercy of the sea, and was finally dashed to pieces on a reef. Nothing of the vessel was saved. Her officers and crew, twenty-seven in number, were lost; also Mrs. Dyer, wife of the lieutenant commanding. The officers were: Lieutenant B. Dyer; D. Organ, master; J. G. Cromwell, purser; and S. Lunt, secretary to the commander. The Wateree was more securely anchored, but dragged her anchor, and the great tidal

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wave swept her four hundred and fifty yards inland, about two miles north of the ruined town, where she laid across a hillock of land very slightly injured. Only one sailor was washed overboard (and it was said his life was saved). Lieutenant Johnson, of the Wateree, was ashore at the time, and while carrying his wife in his arms to some place of safety, she was struck by a portion of a falling building and instantly killed. The Peruvian corvette America shared the same fate as the Wateree, but lost three officers and sixty men. Commander Gillis, of the Wateree, after the disaster, together with Dr. Winslow and Dr. Dubois, of the Fredonia, were of great service to the inhabitants, dividing their provisions among the suffering people and saving many lives. . The American merchantman Rosa Rivera, the English ship Chancellor (with eight men), and the French bark Eduado were lost."

Two days after the event Mr. Powell wrote home the following letter, which was published at the time in the *Yates County Chronicle*, of Penn Yan, N. Y.:

U. S. STEAMER WATEREE, ARICA, August 15, 1868.

My very dear parents, sisters, brother, and friends:

We are alive and well. God has kindly and wonderfully preserved us. Thanks, thanks, thanks, to our kind Heavenly Father. Have you read the news? On the night of the thirteenth this place was visited with an *awful* earthquake. The city is entirely destroyed. The Wateree is high and dry on shore, about an eighth of a mile from the sea. Near us are the wrecks of the America (Peruvian man-of war), and an English bark. The Fredonia, our storeship, was utterly destroyed, and not a sign is visible of a large bark which was anchored near us. The loss of life has been great, both ashore and aboard ships, but we have miraculously escaped with the loss of one man, who was in a small boat. Just after we had finished dinner, a little after five o'clock P. M., we felt a fearful shock, which sent us all to the deck, whence we saw the most frightful sight I ever beheld. The earth was shaking like a leaf, and the buildings in Arica crumbling to the ground as if they were made of so much sand. The shock lasted between *four* and *five* minutes (an age), and at its close most of the town was in ruins. Then, after a few minutes, came the sea rushing in over the wharf, up the streets, utterly destroying those buildings in the lower part of the town that still stood. The current went past us at the rate of seven or eight knots per hour. We let go our second anchor, and, as both dragged, payed out chain. After running in about five minutes the tide changed, and out we went as far as the chains

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would let us, and the water receded so far as to almost leave us aground. But what use of trying to describe it. I never can, much less now, while the excitement is still so great. Two hours of most imminent danger, followed by a night of suspense; shock after shock of earthquakes, sea after sea rushing in and receding, ships almost colliding with us and then disappearing, darkness upon us, till finally both of our anchors were carried away and we were at the mercy of the waves. About half-past seven we struck where we now are, and from that time the sea began to abate. Was I frightened? At the earthquake itself, no; though I felt as I never did before; but for about ten minutes after the first sea came in I was exceedingly alarmed; after that I was perfectly cool—whistled, talked cheerfully to all, and *hung on*. I gave up nearly all hope, thought we must all be destroyed, and stood expecting to see the vessel go to pieces. When the shock came on we were all on board ship, except Lieutenant-Commander Johnson, who was on shore with his wife. Poor Mrs. Johnson! They were living in the second story of about the only house which is now standing, but, like every one else, they ran into the streets, and while her arm was around her husband's neck, a door-casing fell, struck her, and killed her immediately. Mr. Johnson escaped, and finally succeeded in getting her body. Yesterday I was watching with poor Mr. J. till late in the day, when we succeeded in getting a coffin made, and buried her. I had to read the funeral service, and we buried her as much like a Christian as we could. It was an awful day for me; almost as bad, though free from danger, as the night before. The captain of the Fredonia was on shore, and her doctor and paymaster went ashore before the rushing in of the sea, but all the rest on board, except two men, were lost. Three officers—one with his wife—and over thirty men went down with the ship. The last we saw of the Fredonia that night she was all right, but yesterday morning nothing was visible except a piece of her hull with two men clinging to it. The America lost her captain, three other officers, and most of her crew, besides many badly hurt. She is a sad sight. How did we escape? God alone knows. He saved us. It seems providential that this vessel and not another was here, for not another on the coast could have escaped as we did. The Wateree draws very little water, and her bottom is very flat, so that it is almost impossible to capsize her, and she ran upon the shore with hardly a jar. Here, too, the shore is low and soft; but if we had been driven the other side of the city all would have been lost. Some of the waves which came into the bay and town were at least thirty or thirty-five feet high. They rushed up over the first story

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of the custom-house. The people here are all ruined and very many have been killed and wounded. We are about four miles north of the town. We don't apprehend any further trouble, but shall be prepared for anything. Last night all of us, except a few left to guard the ship, camped at the foot of a high hill about three miles inland. The people are living on the sidehills, and some are going inland. We have heard from Tacna. There they lost few lives, though many buildings were destroyed. Several towns north of here are completely destroyed. What are we to do? Stay here for the present and look out for things. To-morrow the mail steamer is due going north, and we shall send word to the admiral at Callao, and expect him here in about a week. Farther than this no one can say. I don't think the government will ever launch the vessel, as it would cost more here than she is worth. Of course we shall not go to Frisco very soon. I will let you know the news by every opportunity. Try not to worry. The Almighty hand will protect us. We have plenty of provisions, and there is water near.

GEORGE K. POWELL.

After the Wateree was driven ashore the officers and crew lived in tents made of sails for ten days, until the arrival of the flag ship Powhatan, which took most of the officers to Callao, and thence most were ordered home by mail steamship and the Isthmus of Panama. Mr. Powell was in the navy about a year and a half. He then returned home and subsequently taught school for a year at Painted Post, N. Y. He was for three months the principal teacher in the house of refuge at Rochester, N. Y. In 1870 he came to Scranton, Pa., and entered the law office of Willard & Royce, and was admitted to the bar of Luzerne county June 12, 1871. He had previously read law under his uncle, Henry M. Stewart, at Penn Yan, and was admitted to the Supreme Court of the state of New York, January 5, 1871. After Mr. Powell's admission to the Luzerne county bar, and marriage, he removed to the borough of Kingston, where he resided until the present year, when he removed to this city. He was for two years while at Kingston superintendent of the Methodist Episcopal Sabbath school of that place. He also filled the positions of trustee, steward, and other offices in the church of his choice. He is a republican in politics, but has never filled, or been an aspirant for, any political office. Mr. Powell married August 28, 1873, Lorette Smallwood, daughter of

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John Smallwood, of Ripley, Chautauqua county, N.Y. Mr. Smallwood was born in England February 15, 1811, and emigrated with his father's family to America in 1820. He married September 20, 1837, Harriet Jeanette, youngest daughter of the late Judge Webster, of Ripley. Mr. Smallwood was a successful farmer. He was also assessor in Ripley for many years. For eight years and over he was one of the commissioners of license for the county of Chautauqua. He was a prominent member of the Methodist Episcopal church, to the various interests of which he was a liberal contributor. He also gave his support, by personal effort and otherwise, to the objects of benevolent and reformatory institutions generally. The father of Mrs. Smallwood was Elizur Webster, who was born in Connecticut August 24, 1767. In October, 1803, he removed from Washington county, N. Y., to Batavia, and in 1808 to Warsaw, where he had taken up several thousand acres of the Holland company's land. In 1837 he removed to Ripley. He was the first settler in the present town of Warsaw, and was eight miles from the nearest settler on the Holland purchase. He was appointed a justice of the peace, the first in the township, and was the first supervisor of Warsaw after its formation, and held the office many years. He was also successively associate judge of the county court, a member of assembly in 1816 and 1817, and a member of the constitutional convention in 1821. He died in Ripley in 1848. One of his daughters married Andrew W. Young, a prominent citizen of western New York, and author of "Science of Government," "National Economy," "American Statesman," "History of Chautauqua County, New York," etc. Mr. and Mrs. Powell have a family of four children: Lewis Smallwood Powell, Nellie Willard Powell, Edith Maria Powell, and Mary Louise Powell.

Mr. Powell's varied experiences before he settled down to the practice of the law were, as will be perceived, of a character to develop that spirit of self-reliance, without which there is small chance for success in any profession. He has seen much of the world and men of the world, and acquired thus a knowledge not to be gleaned of books, and that must needs stand in good stead the lawyer, whose duties call almost as loudly for an understanding of human nature and of matters and things gen-

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erally as of the letter and spirit of the law. He was a dutiful student before his admission and has been a dutiful student ever since. Not a few members of our profession foolishly imagine that when they have gone far enough into the books to acquire title to hang out a shingle, they have fully equipped themselves. Mr. Powell made no such error. He realized from the beginning that while a few years of patient poring over the authorities are sufficient to secure the legal right to call one's self an attorney at law, every spare hour for years after admission must be devoted to keeping pace with new developments, if one seeks to be a lawyer just to his clients and useful to himself. The result is that now, after nearly fourteen years of continuous practice, he enjoys the benefits of a large and profitable clientage, and they, in turn, enjoy the benefit of being ably as well as faithfully served. Mr. Powell is yet young and ambitious and has every prospect, if his life is spared and his physical vigor continues, of reaching a distinguished position in the profession.

George Steele Ferris was born at Pittston, Luzerne county, Pennsylvania, April 28, 1849. He is a descendant of Samuel Ferris, a native of Reading, in Warwickshire, England, who was one of the early settlers of the Massachusetts colony. He was a resident of Stratford, Conn., as early as 1655. Zachariah Ferris, son of Samuel Ferris, married Sarah (*Noble*) Ferris about 1698, and resided in New Milford, Conn. Benjamin Ferris, son of Zachariah Ferris, married Phebe Beecher, of Litchfield, Conn. He was an approved and valuable minister of the gospel, and belonged to the society of Friends, and was a brother of David Ferris, whose memoirs and life was published in Philadelphia in 1855. Benjamin Ferris, son of Benjamin Ferris, was born in 1738. He married Mary Howland, great-granddaughter of Lord Edmund Fitzgerald. Eber Ferris, son of Benjamin Ferris, was born in Newtown, Conn., May 26, 1784. Edwin Fitzgerald Ferris, son of Eber Ferris, was born February 19, 1822, at Unadilla, N. Y. He spent his early life in Otsego county, N. Y., and came to the Wyoming Valley in company with the late Rev.

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Reuben Nelson, D. D. After the opening of the Wyoming Seminary, September 24, 1844, he was one of the teachers. He resided in Pittston for many years, and in 1847 was superintendent for Lord and John L. Butler during their early coal operations. He subsequently engaged in the milling business, and was in partnership at various times with James Mott, Theodore Strong, J. A. Wisner, and Charles Steele, until the summer of 1861, when he accepted a position in the civil service at Washington, D. C. He died June 7, 1877, at Pittston. He married December 7, 1847, Margaret, daughter of Joseph and Sarah (*Ransom*) Steele. Mrs. Ferris was a descendant of Samuel Ransom, who was born about 1737, at or near Ipswich, England. He was a resident of Canaan, Litchfield county, Conn., on May 6, 1756, and on that day was married to Esther Laurence. She was born about the year 1739, in Windham county, Conn. In 1758 the eastern part of Canaan was set off into the town of Norfolk, and it was in this town, near Doolittle Pond, that Samuel Ransom bought land and lived until he removed to the Wyoming Valley, in 1773; and it was on this farm that all his children, except the youngest, were born. He was evidently a prominent citizen, and, for those days, a wealthy farmer. In less than six months after he moved to the valley he had established himself as a prominent citizen, and March 2, 1774, he was chosen a selectman of the town of Westmoreland, and a surveyor of highways. His name frequently appears in the local histories of the times as a leading member of the community, and a participant with his neighbors in the earlier troubles between the Connecticut settlers and the Pennsylvania authorities, and in the events leading to the revolutionary war. Miner, in his "Hazleton Travelers," speaks of Captain Ransom as having been in the French and Indian war. It is not likely that he would have been appointed a captain in the Continental service had he not had some previous military experience in the field. The Hartford, Conn., state records show that he was commissioned by the assembly October, 1775, as captain of the Third company Twenty-Fourth regiment Connecticut militia. On August 24, 1776, it was voted at a town meeting to erect certain forts "as a defense against our common enemy"—the British

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and Indians. Among the forts erected in compliance with this resolution was one on Garrison Hill, in Plymouth; and for this Samuel Ransom hauled the first log. On August 23, 1776, congress passed the following resolution: "Two companies on the Continental establishment to be raised in the town of Westmoreland, and stationed in the proper places for the defense of the inhabitants of said town and parts adjacent, till further order of congress; * * * that the said troops be enlisted to serve during the war, unless sooner discharged by congress; * * * that they be liable to serve in any part of the United States." On August 26, 1776, congress commissioned Samuel Ransom, of Plymouth, captain. He enlisted his company, which was known as the Second Independent company, for the revolutionary service, and was attached to the Connecticut line. On December 12, 1776, congress resolved, "that the two companies raised in the town of Westmoreland be ordered to join Washington with all possible expedition." Captain Ransom's company consisted of eighty-four men, and its headquarters before joining Washington was either at Garrison Hill or Forty Fort. On the roll of names I find that of his son-in-law, Timothy Hopkins, and of his son, George Palmer Ransom. Without following Captain Ransom and his company in historical detail, it will be sufficient to say that they joined the regular Continental army at Morristown, N. J., and were first under fire in January, 1777, at the battle of Millstone, N. J., near Somerset court house, under General Dickinson. We next find Ransom engaged at the battles of Brandywine, Germantown, Bound Brook, and Mud Fort, and in other lesser engagements, where he and his command acquitted themselves like veterans. In October, 1777, his company, by casualties, was reduced to sixty-two men. During the winter they remained with the main army in winter quarters near Morristown, N. J. In the following June affairs in the Wyoming Valley became so threatening that Captain Ransom resigned to go to his home and defend it against the British and Indians, who were advancing down the valley under Colonel John Butler. Captain Ransom reached Forty Fort on the morning of the massacre and reported to Colonel Zebulon Butler, the American commander, as a volunteer aide. Upon the incidents of the

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massacre it is not necessary to dilate. Captain Ransom fully sustained his reputation as a cool and fearless soldier, and was killed in the heat of the fight. He was with Whittlesly's company on the extreme left, under the command of Colonels Denison and Dorrance. He was detailed to make a reconnoisance of the ground at the opening of the engagement, and, as he did not return to report, it is probable that he went at once into the thick of the fight and was unable to withdraw before he was killed. Of the fifteen officers eleven were killed. Every captain of the six companies, including Captain Ransom, was found dead at the front of the line. The place where they fell is about a mile above the Wyoming station of the D., L. & W. R. R., and very nearly on the bed of the track of that road. Captain Ransom's body was found near fort Wintermoot with a musket shot through the thigh, his head severed from his shoulders and his whole body scarred with gashes. It was identified by the shoe and knee buckles. He was buried with the other bodies near the site of the granite monument erected to the memory of those who fell in this battle. His name leads the list of the killed engraved upon the tablet. The township of Ransom in Lackawanna (late Luzerne) county, was named in honor of Captain Samuel Ransom. The sufferings, hardships, and outrages to which the survivors of the massacre and their families were subjected are too familiar to require repetition here. Samuel Ransom's house and other buildings were burnt, and his family fled down the valley with the other refugees. After the advance of Sullivan's army his family returned and re-occupied their land, only to become involved in the troubles growing out of the struggle for the ownership of the valley between the Connecticut and the Pennsylvania authorities. In all these hardships they bore their share. After the death of Captain Ransom his widow married Captain James Bidlack, sen., and is said to have moved back to Norfolk, Conn., where, in all probability, she died. George Palmer Ransom, second son of Captain Samuel Ransom, went to the Wyoming Valley with his father in 1773, when eleven years of age. At fourteen years of age he enlisted in his father's company and served with it during the war. After the resignation of Captains Ransom and Durkee, their companies

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were merged into one under Lieutenant, afterwards Captain, Spalding, and on the day of the massacre July 3, 1778, it was hastening to the scene of hostilities, but was still some forty-five miles distant at Shupp's, on the Pocono. George was with this company the day of the battle. He helped to bury the dead, among them his father. On December 6, 1780, when eighteen years old, he and five others were taken prisoners by a party of Butler's rangers and carried into captivity to Montreal, suffering grievous hardships and subjected to many indignities. In June, 1781, he and several others escaped from prison. They wandeaed through the dense wilderness towards Lake Champlain, which they reached after three days and nights of intense suffering from cold, fatigue, and hunger. They lived on snakes and frogs. He next went to a kinsman's at Pultney, Vt., where he remained until completely rested, and then went to Connecticut. From there he re-joined his company. He was in Sullivan's campaign up the Susquehanna valley after the Indians, and afterwards was stationed at West Point, N. Y., where he received an honorable discharge at the end of the war. He married his first wife, Olive Utley, of Taunton, Mass., during the war, nor did he take his wife and child to Plymouth till the close of the same Mrs. Ransom rode there on horseback, carrying in her arms her infant daughter, Sarah, afterwards Mrs. Joseph Steele, and the grandmother of the subject of our sketch. After his discharge George Palmer Ransom settled permanently at Plymouth, where for sixty-five years he was a well-known, greatly respected and highly honored citizen. He was for many years colonel of the militia regiment of Luzerne county. He died in 1850 in his eighty-ninth year. His first wife died July 14, 1793, aged thirty-three years. Sarah Ransom, eldest child of Colonel George Palmer Ransom and Olive (*Utley*) Ransom, was born September 11, 1784, at Taunton, Mass. She married May 1, 1800, Joseph Steele, of New Buffalo, Pa. Margaret, youngest child of Joseph and Sarah Steele, and mother of the subject of our sketch, was born June 23, 1826, at Hanover township, Luzerne county, Pa. For the facts relating to the Ransom family we are indebted to "A GENEALOGICAL RECORD OF THE DESCENDANTS OF CAPTAIN SAMUEL RANSOM, OF THE CONTINENTAL ARMY," compiled by his

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great-great-grandson, Captain Clinton B. Sears, of the United States army. George S. Ferris was educated at Columbia college, Washington, D. C., and at Allegheny college, Meadville, Pa., from which latter institution he graduated in 1869. In 1870 and 1871 he was a clerk in the treasury department in Washington, D. C., and while in that position he studied law in the Columbia Law school of that city. He graduated from the Law school, in June, 1871, and was admitted to the Supreme Court of the District of Columbia. He then returned to Pittston and entered the law office of the late C. S. Stark, and was admitted to the bar of Luzerne county February 19, 1872. Mr. Ferris has been for the past six years a trustee of the First Presbyterian church of West Pittston, and is at present a school director of that borough. He married September 1, 1875, Ada, daughter of Lewis G. Stark, who resides near Nicholson, Wyoming county, Pa. They have one child, Edwin Fitzgerald Ferris.

Lewis G. Stark is the descendant of Aaron Stark, of Hartford Conn., in 1639. He was in Windsor in 1643; in Mystic in 1653. In May, 1666, he took the freeman's oath in Stonington, Conn. In 1669 he was made freeman of New London, Conn., where he died in 1685. Christopher Stark, son of William Stark, and grandson of Aaron Stark, lived in Dutchess county, N. Y., and must have been a very aged man when he removed to Wyoming with his family in 1769. He died in 1771. James Stark, one of his sons, died July 20, 1777. In the battle and massacre were three of the name: Aaron Stark, James Stark, and Aaron Stark, jun. David and Aaron, sons of Christopher Stark, fell. Aaron Stark, jun., son of James Stark, was in the massacre and escaped. He subsequently returned to Dutchess county, N. Y. William Stark, son of Christopher Stark, came from Dutchess county, N. Y., and settled on the Tunkhannock creek, now in Wyoming county, Pa. He married Polly Cary, and died about 1795. He was buried at Goshen, N. Y. Nathan Stark, son of William Stark, was born December 28, 1768. He married Dorcas Dixon, and died May 23, 1837. William Stark, son of Nathan Stark, was born January 13, 1791. He was a pensioner of the war of 1812, and died a few years since. Lewis G. Stark is a son of William Stark.

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Mr. Ferris, it will be observed, is at this writing but thirty-five years of age, and has been twelve years a practitioner at the bar. The general tendency of attorneys is to the county seat of the county, where they hang out their shingles. The assumption is natural that where the courts are, there the most legal business is to be done, but it is equally true that where the courts are there are always the greatest number of lawyers to do it. Mr. Ferris has resisted the temptation to settle down within sight of the court house, and has remained in Pittston, which, being the place of his nativity, and, as a consequence, the home of his closest friends, who know him better than he could be known elsewhere, has given him a very extensive and quite lucrative practice. It is not flattery to speak of him as one of the really good young lawyers of the county. He comes of good stock, as already shown; he has fine natural abilities; his *alma mater* gave him every advantage; he has industry and persistence; and out of these conditions and qualities he has reared a professional reputation that brings him numerous clients, whose interests are always intelligently and conscientiously served.

BOOK NOTICE.

FEDERAL DECISIONS. Cases argued and determined in the Supreme Circuit and District Courts of the United States. Arranged by William G. Myer. Vol. X., pp. 1,055. The Gilbert Book Co., St. Louis.

The volume before us, though it will be number ten in the completed series, is issued now the sixth in order of publication. This happens because the intervening subjects are in the hands of editors, and are not yet ready for the press. Volume X. contains but one subject, "Corporations," which is subdivided into "Private Corporations," covering 789 pages, with 1,951 sections; and "Municipal Corporations," 181 pages, with 674 sections. Private Corporations are treated under the following general heads: 1. Creation, nature, name, and duration; 2. subscription and stock; 3. personal liability of stockholders; 4. transfer of stock; 5. rights of stockholders; 6. officers and agents; 7.

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powers, duties, and liabilities; 8. contracts; 9. foreign corporations; 10. regulation and control; 11. dissolution; 12. railway companies; 13. miscellaneous. The subject of Municipal Corporations is divided as follows: 1. Powers; 2. licenses; 3. destruction of private property; 4. municipal debts; 5. streets; 6. counties; 7. officers; 8. miscellaneous. Benjamin Vaughan Abbott gives sanction to the method by which the volume has been compiled; he certifies that the cases rejected are "not of sufficient importance to appear in full." This may, in a general way, be true. As to one case, however, we beg leave to be permitted to take an exception. The famous litigation Dartmouth College *v.* Woodward, 4 Wheaton, has, aside from its legal aspect, such historical interest that we cannot approve the disposition made of it on pages 39, 587, 782, §§29, 1,388, 1,867. It is entitled to more than the few lines thus accorded to it. Were cases of this character reported in the fullest manner, notwithstanding the principles decided by them have become ingrained in the law through a legion of subsequent adjudications, they would lend a charm to the volume that would place it above the ordinary digest or text-book. One great value possessed by the original reports lies in this, that they give to the thoughtful reader a deeper insight into the development of our institutions than is anywhere else attainable. Some decisions mark turning points in our history. The bald statement of the syllabus of such a case sacrifices to the zeal for abridgment the very soul of the controversy; the life, power, and interest of the case. Better would it be to re-produce fully, not only the facts in litigation, but the arguments in full of the eminent counsel who, by eloquence and research, have laid the foundation for the authoritative declaration of the law as it came from the pens of the judges. In the main, however, Mr. Abbott is, undoubtedly, correct in his certificate. The volume covers much ground; extracts from many separated tomes; whatever bears in a general way upon Corporations, private and municipal; gives many and important cases upon each phase of corporation law in full; and if not quite abreast with the others of the series heretofore issued, is, nevertheless, of great value, both for its arrangement and convenience. We recommend the series unhesitatingly to lawyers who desire to have federal decisions in a unique and compact form.

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ORPHANS' COURT SALE.

Estate of John S. Jenkins, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Wednesday, December 17, 1884, at 10 o'clock A. M., the following real estate:

All that lot of land in the township of Plains, on the main road from Wilkes-Barre to Pittston, beginning at a corner on the main road, thence along lands of C. H. Stoffh 211 feet to lands of Aaron Hilbert, thence along Hilbert's land 50 feet to a corner, thence along lands of Hannah L. Jenkins 219 5-10 feet to the main road, thence along said main road 50 feet to the place of beginning; excepting all coal and other minerals; All improved with a 2-story frame house and other outbuildings thereon.

TERMS OF SALE.—30 per cent. down and balance on confirmation of sale.

H. L. JENKINS,
DICKSON & ATHERTON, Administrator,
47-49 Attorneys.

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ORPHANS' COURT ARGUMENT LIST.

SATURDAY, NOVEMBER 29, 1884.

1	In Re Estate of Joseph Jaquish, deceased	Payne	Exceptions to final account of Administrator.
2	In Re Estate of Erastus Smith, deceased	P., Richards	Exceptions to partial account of Executors.
3	In Re Estate of Jacob Billheimer, deceased	Darlings, Brundage	Exceptions to final account of Executors.
4	In Re Estate of John Maier, deceased		Exceptions to account of Guardian.
5	In Re Estate of Michael Hart, deceased	Gates, W	Exceptions to sale of real estate.
6	In Re Estate of J. W. Rinker, deceased		Exceptions to account of Administratrix.
7	In Re Estate of Monroe Bemis, deceased	D. & A., D. W. C., J. A. D.	Exceptions to account of Executor.

ESTATE OF SAMUEL WHITEBRED, LATE of Hollenback township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN P. WHITEBRED,
Hobbie, Pa.

W. S. McLEAN,
Attorney. 47-52

ESTATE OF SARAH MYERS, LATE OF Newport township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARRIET FAIRCHILD,
Alden, Pa.

B. M. ESPY,
Attorney. 47-52

ESTATE OF WILHELMINA REICHARD, Late of Wilkes-Barre, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEO. N. REICHARD,
Wilkes-Barre, Pa.

E. S. OSBORNE,
Attorney. 42-47

ORPHANS' COURT SALE.

Estate of Thomas C. Harkness, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Saturday, the 15th day of November, A. D. 1884, at 10 o'clock A. M., the following valuable real estate, to wit:

1. All that lot of land on the westerly side of Franklin street, in the city of Wilkes-Barre, beginning at a corner on said Franklin street by lands of the estate of Frederick McAlpine, deceased, thence by the same 225 feet to a corner of lot of William McDermott, thence by the same and lot of George Farris 42 feet to a corner by lands now or late of E. H. Chase, thence by the same 225 feet to a corner on said Franklin street, thence along said street 42 feet to the place of beginning; containing 9450 square feet of land more or less; improved, with a large 2-story brick dwelling house with mansard roof, and all modern improvements.

2. The surface of all that lot of land in the city of Wilkes-Barre, beginning at a corner of Andover street and Arch street in said city, thence along said Andover street about 880 feet to Grove street, thence along said Grove street about 300 feet to Spring street, thence along said Spring street 608 6-10 feet to Arch street, thence along said Arch street about 403 feet to the place of beginning, being lots Nos. 20 to 35, both included, and lots Nos. 52 to 64, both included, in the plan of lots known as the Lockhart lots.

3. The surface of all that lot of land in the city of Wilkes-Barre, beginning at a corner of Main street and Andover street in said city, thence along said Andover street about 208 feet to a corner on a 24 foot alley, thence along said alley about 155 feet to a corner on lot No. 90 in the plot hereinafter referred to, thence along said lot No. 90 about 200 feet to a corner on said Main street, thence along said Main street about 100 feet to the place of beginning, being lots Nos. 88 and 89 in the plan of lots known as the Lockhart lots. Lot No. 88 is improved with a frame dwelling house.

TERMS OF SALE.—On piece No. 1, one-fourth down on day of sale, one-fourth on confirmation of sale and delivery of deed, and the balance, with interest, from confirmation as follows: one-half of balance in six months, and remainder in one year from confirmation. As to pieces Nos. 2 and 3, $25 on each lot down, $75 on confirmation of sale and delivery of deed, and balance, with interest, from confirmation as follows: one-half of balance in one year, and remainder in two years from confirmation. Pieces Nos. 2 and 3 will be sold either in single lots or in blocks. Deferred payments in all cases to be secured by bond and mortgage on the premises.

ISAAC LIVINGSTON,
Administrator.

E. S. OSBORNE,
R. D. EVANS,
Attorneys. 45-47

AUDITOR'S NOTICE.

In re partition of the real estate of Joseph P. Schooley, deceased. The undersigned, an auditor appointed by the Orphans' Court of Luzerne county, to ascertain whether there are any liens or other incumbrances on the real estate taken in partition in the said estate affecting the interest of the parties and to marshall the same; also to ascertain and apportion the costs and expenses of partition, and also to report amount of recognizance to be given by the accepting heirs, hereby gives notice that he will attend to the duties of his appointment at his office, No. 18 South Franklin street, Wilkes-Barre, Pa., on Wednesday, the 17th day of December, A. D. 1884, at 10 o'clock A. M., when and where all parties interested are requested to present their claims before the undersigned, or forever be debarred from coming in upon said fund.

HENRY W. DUNNING,
Auditor.
47-50

CHAS. D. FOSTER,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

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$200,000 *in presents given away.* Send us 5 cents postage, and by mail you will get *free* a package of goods of large value that will start you in work that will at once bring you in money faster than anything else in America. All about the $200,000 in presents with each box. Agents wanted everywhere, of either sex, of all ages, for all the time, or spare time only, to work for us at their own homes. Fortunes for all workers absolutely assured. Don't delay. H. HALLETT & Co., Portland, Maine.

ESTATES TO BE AUDITED BY THE Orphans' Court of Luzerne county. Notice is hereby given that accounts have been filed and confirmed absolutely by the court in the following estates:

1. Justus Reinbach; William Kauffman, executor; 24th November, 1884.
2. Ann Margaretta Dutte; John Kauffman, administrator; 24th November, 1884.
3. Thomas Seybert; Benjamin Evans, trustee; 25th November, 1884.
4. Daniel Harding; Giles Harding and Peter Sutton, executors; 25th November, 1884.
5. Margaretta Rittersbacher; Frederick G. Smith, administrator; 26th November, 1884.
6. Andrew Belles; William Belles, executor; 26th
7. William Abbott; Charles A. Miner, administrator; 28th November, 1884.
8. Barney Hunsinger; Samuel Benner, administrator; 28th November, 1884.

The accounts enumerated and designated in the above list will be audited by the court, in the Court House, in the Orphans' Court room, during the session of court on the days set forth opposite the name of each estate, at which time all persons interested shall attend, if they see fit, and present their claims against said estate, or forever thereafter be debarred from coming upon said fund.

JOSEPH HENDLER,
45-47 Clerk O. C.

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 190½, October term, 1884. Libel in divorce a vinculo matrimonii. Mary Meyer, by her next friend, Isaac Livingston, v. Henry Meyer. The alias subpœna in the above case having been duly returned, "That the said Henry Meyer cannot be found in Luzerne county." You, the said Henry Meyer, respondent, are required to appear on Monday, January 12, 1885, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
E. S. OSBORNE, Sheriff.
E. P. & J. V. DARLING,
47-50 Attorneys.

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 46, February term, 1885. Libel in divorce a vinculo matrimonii. Sussanna Hoch, by her next friend, Emanuel Rogers, v. Stephen Hoch. To Stephen Hoch—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpœna having failed on account of your absence. Returnable on Saturday, December 13, A. D. 1884, at 10 o'clock A. M.

HARRY HAKES,
47-48 Solicitor.

HARRY HALSEY,

a member of the Bar of Philadelphia county, will apply for admission at November term, 1884, to practice as an attorney in the several courts of Luzerne county. 46-48

HENRY R. LINDERMAN,

a member of the Bar of Monroe county, will apply for admission at November term, 1884, to practice as an attorney in the several courts of Luzerne county. 46-48

A PRIZE. Send six cents for postage, and receive free, a costly box of goods which will help you to more money right away than anything else in this world. All, of either sex, succeed from first hour. The broad road to fortune opens before the workers, absolutely sure. At once address. TRUE & Co., Augusta, Maine.

WIN more money than at anything else by taking an agency for the best selling book out. Beginners succeed grandly. None fail. Terms free HALLETT BOOK CO., Portland, Maine.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Jacob Groh, and that said license will be asked for in the court aforesaid, on Monday, December 1st, 1884, at 10 o'clock A. M.

D. M. JONES,
46-47 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by John Brown, and that said license will be asked for in the court aforesaid, on Monday, December 1st, 1884, at 10 o'clock A. M.

B. McMANUS,
46-47 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Louis Dunie, and that said license will be asked for in the court aforesaid, on Monday, December 1ts, 1884, at 10 o'clock A. M.

S. J. STRAUSS,
46-47 Solicitor.

ESTATE OF PETER HOLMAN, LATE OF Hazle township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES HOLMAN,
C. W. KLINE, Hazleton, Pa.
Attorney. 47-52

ESTATE OF JOHN REICHARD, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

GEORGE N. REICHARD,
JOHN REICHARD, JUN.,
42-47 E. S. OSBORNE.

ESTATE OF MARY H. WILLIAMSON, LATE of Wilkes-Barre, Pa., deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. R. BRUNDAGE,
43-48 Wilkes-Barre, Pa.

ESTATE OF JOHN JONES, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH RUDDICK,
45-50 Executrix.

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ESTATE OF THOMAS GILES, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH A. GILES,
CHARLES BOMBOY,
GEO. H. TROUTMAN, Hazleton.
44-49 Attorney.

ESTATE OF PETER BEISEL, LATE OF Butler township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BARBARA BEISEL,
47-52 Drums, Pa.

ESTATE OF ELIJA KRICKBAUM, LATE OF Huntington township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. B. KRICKBAUM,
47-52 Town Hill, Pa.

ESTATE OF MICHAEL READING, LATE OF Wilkes-Barre, Pa., deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

THOMAS F. SHERIDAN,
P. H. CAMPBELL, Wilkes-Barre, Pa.
Attorney. 43-48

ESTATE OF RODMAN C. BROWNING, LATE of Kingston horough, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands, to present the same, without delay, to

ELIZABETH S. BROWNING,
H. W. DUNNING, Kingston, Pa.
46-51 Attorney.

ESTATE OF MICHAEL MALIA, LATE OF Pittston township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BRIDGET MALIA,
42-47 Pittston, Pa.

ESTATE OF SARAH C. WAGNER, LATE OF White Haven, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

EDWARD TATTERSHALL,
GUSTAV HAHN, White Haven, Pa.
Attorney. 42-47

ESTATE OF DANIEL SCURRY, LATE OF Carbondale, Lackawanna county. deceased.

Letters of administration *cum testamento annexo, de bonis non* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

DANIEL SCURRY,
J. E. BURR, Carbondale, Pa.
Attorney. 41-47

ESTATE OF HENRY KANE, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY KANE,
46-51 Wilkes-Barre, Pa.

ESTATE OF PETER HUSHBUT, LATE OF Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HENRY HUSHBUT,
45-50 Pittston, Pa.

ESTATE OF CATHARINE MAY SNYDER, late of Hollenback, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

B. M. ESPY,
43-48 Wilkes-Barre, Pa

ESTATE OF ROBINSON BOYD, LATE OF Luzerne, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES M. BOYD,
45-50 Luzerne, Pa.

ESTATE OF MARY QUINN, LATE OF JENkins township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MICHAEL QUINN,
45-50 Port Blanchard.

ESTATE OF PENELOPE E. B. CRAWFORD, late of Cincinnati, Ohio, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

OSCAR J. HARVEY,
46-51 Wilkes-Barre, Pa

ESTATE OF DAVID SCOTT KIDDER, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES H. KIDDER,
46-51 Wilkes-Barre, Pa.

W. S. PARSONS,

ALDERMAN,

WILKES-BARRE, PA.

WILLIAM S. McLEAN,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, NOVEMBER 28, 1884. No. 48.

Court of Common Pleas of Luzerne County.

EDWARDS *et ux.* *v.* CARR.

1. A joint action of debt against a husband and wife for rent cannot be maintained, it not appearing on the record that it was alleged or proved that the debt was contracted by her and was for necessaries.
2. Where a case pending before a justice is adjourned without day, he has no authority to proceed further with the action without proof of service of notice on the defendant.

Certiorari.

The opinion of the court was delivered November 24, 1884, by

RICE, P. J.—The cause of action, as shown by the record, for which this judgment was entered against the defendants below, was the joint indebtedness of the husband and wife "for rent." If it was intended to bring the case within section 8 of the act of April 11, 1848, the record is fatally defective, for it does not appear that it was either alleged or proved that the debt was contracted by the wife and was incurred for necessaries. How, then, can the judgment be sustained? We do not question the principle that a valid lease, independently of that act, may be made to a *feme covert* with her husband's consent, and that payment of the rent may be enforced by distress of the goods upon the premises. It does not follow that a personal action can be maintained against her for the rent. Distress is an incident to the demise, subject to which she goes into and holds the possession. Her goods, even, may be distrained for non-payment of rent reserved on a lease to her husband. Blanch *v.* Bradford, 2 Wr. 344. But an action for the rent is based on the contract to pay, which, as a personal obligation enforceable against her separate estate, is void. There may be exceptions to this rule,

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but this case is not shown to be one of them. For this reason the judgment must be reversed, notwithstanding the certiorari was not sued out within twenty days. The defect is not mere irregularity in the proceedings, but want of jurisdiction. Where a case pending before a justice is adjourned without day, the justice has no authority to proceed further with it, and to hear or pass judgment on it without having notice served on the defendant, and proof of service made before him. Brown *v.* Hambright, 3 Luz. Leg. Reg. 35. This must also appear of record. It is advisable also for the justice to set forth how the defendant was notified, so that the court may decide whether the notice was sufficient.

The judgment is reversed and the proceedings are set aside.

John T. Lenahan, Esq., for plaintiffs in error.
E. D. Nichols, Esq.. for defendant in error.

Court of Common Pleas of Luzerne County.

PEARNE *et ux.* *v.* HUTCHINS.

In an action of debt against a man and his wife, upon certiorari, a *nolle prosequi* may be entered as to the wife, and judgment may be taken against the husband alone; *provided*, the record shows a distinct promise by the husband to pay.

Certiorari.

The opinion of the court was delivered October 27, 1884, by

WOODWARD, J.—At the request of the counsel for the plaintiffs on this *certiorari*, we have carefully re-considered our opinion in this case, but our views upon the main question involved remain unchanged. The general rule, undoubtedly, is that laid down in Boaz *v.* Heister, 6 S. & R. 18, and followed in many subsequent cases, that (where a judgment is entered jointly against two persons, and proves erroneous as to one, it cannot be reversed as to one and affirmed as to the other). The reason of the rule is evident. In a suit against two parties upon a *joint* contract, there can be no recovery against one, because neither is liable if the

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contract were not the joint contract of both. But there are two reasons why this rule is inapplicable to the case before us. These are: First, Because the contract, as set forth in the transcript of the justice (and which we are bound to accept as correct), is not only joint but also *several;* and secondly the defense is coverture on the part of the wife, which, while good as to her in certain cases, is not available by the husband when joined as the defendant in a case where a distinct promise by him to pay the debt is proved. This doctrine of the law is sustained in Swanzy *v.* Parker, 14 Wr. 452, where it is said that the general rule in regard to joint debtors does not apply "when one sets up a defense which the other cannot use." In such cases if the one succeeds in maintaining his plea, a judgment in his favor does not necessarily relieve the other. Again, the case before us is clearly distinguishable from that of Ingham *v.* Sickler, 2 Luz. Leg. Reg. 105. That was the case of a promissory note, signed by two defendants who were husband and wife. The language of Judge Elwell is as follows: "If the case were pending here as an appeal, and a plea of coverture were interposed by the wife—*the plea being personal as to her*—we might, under the statutes of amendment, allow her name to be stricken from the record, and permit the plaintiff to proceed to judgment against the husband." In the present case, as we said in our former opinion, the married woman is nowhere named in the proceedings before the justice. A person designated as "the wife" appears as one of the defendants, but neither the record of the magistrate nor the return upon the summons by the constable discloses her name. It is quite doubtful whether, under such circumstances, it is accurate to treat the case in any different manner than would be proper if the husband had been sued alone. However this may be, we are satisfied that all irregularities may be cured by an entry of a *nolle prosequi* as to the wife. This being done, we now direct that the proceedings as to James Pearne be affirmed. See Ward, *et al. v.* Taylor, 1 Barr, 238; Weil *v.* Jacoby, 12 P. F. S. 110; Weil *v.* Davis and wife, 2 Luz. Leg. Reg. 41.

J. L. Lenahan, for plaintiffs.

Steuben Jenkins, for defendant.

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Court of Common Pleas of Luzerne County.

RIDDLE *v.* WITCRAFT *et al.*

1. The finding of the facts of a case by an auditor cannot be disturbed, except for clear mistake or fraud.
2. The costs of an audit are to be imposed according to the equities of the case.

Auditor's report and exceptions.

The opinion of the court was delivered October 27, 1884, by

WOODWARD, J.—We are bound to assume that the auditor was correct in his finding of the facts in this case, in the absence of clear and distinct proof to the contrary. This view of the case disposes of all questions raised by the exceptions, except that one which has reference to the payment of the auditor's fee. The auditor has found that the necessity for the appointment of an auditor arose from the "unreasonable" action of Messrs. Morris & Walsh in demanding the entire fund after an offer of settlement by the attorney of the plaintiff in the execution. Under such circumstances we are not prepared to say that the auditor erred in his disposition of the question of costs. See Appeal of St. Joseph Orphans' Asylum, 2 Wr. 535. The amount charged by the auditor as his fee does not seem excessive. It is true that the taking of the testimony consumed but a single day. At least one day more would be required in the consideration of the case and the preparation of the report. Since the act of June 4, 1879, it has been held by this court that the report of the auditor and the statement of the charge for services will be considered *prima facie* evidence of the time employed by him in performing his duties.

The exceptions to the report of the auditor are overruled and the report is confirmed, and it is ordered that Messrs. Morris & Walsh pay the costs of the audit as recommended by the auditor.

G. L. Halsey, for plaintiff.

E. G. Butler, *contra.*

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ORPHANS' COURT SALE.

Estate of Rodman C. Browning, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, in the city of Wilkes-Barre, Pa., on Saturday, December 27, A. D 1884, at 10 o'clock A. M., the following real estate:

1. All that lot of land in the township of Jenkins, beginning at a corner in line of lands of W. D. Hale, thence 5 perches along said Hale's land to corner in line of said Hale's land and corner of lot No. 18, thence 8 perches to corner in centre of a street called Main street, thence along said Main street 5 perches to a corner, and thence 8 perches to the beginning; containing 40 perches of land, strict measure, and being lot No. 17 on a plot and survey of the lands late of Isaiah Hale

2. Also, all that lot of land in Jenkins township, beginning at a corner in centre of said Main street and corner of lot No. 27 on said plot and survey now occupied by Ira ————, thence 8 perches to a corner in centre of an alley No'd 4 on said plot and survey, thence along said alley 5 perches to a corner, thence 8 perches to centre of said Main street, and thence along said Main street 5 perches to the beginning; containing 40 perches of land, strict measure, and having thereon 1 frame dwelling house, and being lot No. 26 on said plot and survey.

3. Also, all that lot of land in Jenkins township, beginning at a corner in line of lands of the Pennsylvania Coal Company and corner of lot No. 22 on said plot and survey, thence 11 6-10 perches to corner in centre of Main street aforesaid, thence along said street 4 perches to corner, thence about 12 perches to corner in said Pennsylvania Coal Company's land, and thence along same about 4¾ rods to the place of beginning; containing about 49 perches of land, more or less. and being part of lot No. 23 on said plot and survey.

4 Also, the undivided two-thirds interest in that lot of land in Jenkins township being No. 18 on said plot and survey, beginning at a corner in line of W. D. Hale's land and corner of lot No. 17 hereinbefore described, thence along said Hale's line 5 perches to a corner, thence 8 perches to a corner in centre of said Main street, thence along same 5 perches to corner of lot No. 17 aforesaid, and thence by it 8 perches to the beginning; containing 40 perches of land, strict measure.

5. Also, all the undivided one-third interest in that lot of land in Jenkins township, being Nos. 33 and 34 on said plot and survey, beginning at a corner in line of lands of the Pennsylvania Coal Company, and in centre of alley No. 2 on said plot and survey, thence alond said alley 4 6-10 perches to a corner, thence along alley No. 4, 24 5-10 perches to a corner, thence along alley No. 3, 11 3-10 perches to corner in said Coal Company's line, and thence along same 25 7-10 perches to the beginning; excepting and reserving all the coal and other minerals and privilege to erect npon lot No. 34 suitable machinery for sinking a shaft and elevating the coal aforesald.

TERMS OF SALE.—One-third down, one-third of balance on confirmation of sale and delivery of deed, and balance, with interest from confirmation, in six months from said confirmation of sale. Deferred payments to be secured by bond and mortgage on the premises.

ELIZABETH S. BROWNING,
HENRY W. DUNNING, Administratrix
48-50 Attorney.

ORPHANS' COURT SALE.

Estate of Thomas C. Harkness, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Saturday, the 27th day of December, A. D. 1884, at 10 o'clock A. M., the following valuable real estate, to wit:

1. All that lot of land on the westerly side of Franklin street, in the city of Wilkes-Barre, beginning at a corner on said Franklin street by lands of the estate of Frederick McAlpine, deceased, thence by the same 225 feet to a corner of lot of William McDermott, thence by the same and lot of George Farris 50 feet to a corner by lands now or late of E. H. Chase, thence by the same 225 feet to a corner on said Franklin street, thence along said street 50 feet to the place of beginning; containing 11,250 square feet of land more or less; improved, with a large 2-story brick dwelling house with mansard roof, and all modern improvements.

2. The surface of all that lot of land in the city of Wilkes-Barre, beginning at a corner of Andover street and Arch street in said city, thence along said Andover street about 880 feet to Grove street, thence along said Grove street about 300 feet to Spring street, thence along said Spring street 608 6-10 feet to Arch street, thence along said Arch street about 403 feet to the place of beginning, being lots Nos. 20 to 35, both included, and lots Nos. 52 to 64, both included, in the plan of lots known as the Lockhart lots.

3. The surface of all that lot of land in the city of Wilkes-Barre, beginning at a corner of Main street and Andover street in said city, thence along said Andover street about 208 feet to a corner on a 24 foot alley, thence along said alley about 155 feet to a corner on lot No. 90 in the plot hereinafter referred to, thence along said lot No. 90 about 200 feet to a corner on said Main street, thence along said Main street about 100 feet to the place of beginning, being lots Nos. 88 and 89 in the plan of lots known as the Lockhart lots. Lot No. 88 is improved with a frame dwelling house.

TERMS OF SALE.—On piece No. 1, one-fourth down on day of sale, one-fourth on confirmation of sale and delivery of deed, and the balance, with interest, from confirmation as follows: one-half of balance in six months, and remainder in one year from confirmation. As to pieces Nos. 2 and 3, $25 on each lot down, $25 on confirmation of sale and delivery of deed, and balance, with interest, from confirmation as follows: one-half of balance in one year, and remainder in two years from confirmation. Pieces Nos. 2 and 3 will be sold either in single lots or in blocks. Deferred payments in all cases to be secured by bond and mortgage on the premises.

ISAAC LIVINGSTON,
E. S. OSBORNE, Administrator.
R. D. EVANS,
Attorneys. 45-47

ORPHANS' COURT SALE.

Estate of Anna Elizabeth Meikrantz, deceased. By virtue of an order of the Orphan's Court of Luzerne county, there will be exposed to public sale, on the premises in Hazleton borough, on Saturday, December 20, A. D. 1884, at 1 o'clock P. M., the following real estate:

All that lot of land on the west side of Cedar street, in the borough of Hazleton, being the lots marked Nos. 4 and 5 of square No. 100 in the plan of said borough, beginning at a point on the west side of Cedar street, 90 feet north of Tamarack street, thence along Cedar street 60 feet to a street, thence along said street 190 feet to a certain 20-feet wide alley, thence along said alley 60 feet to lot No. 3, thence 190 feet to the place of beginning; containing 60 feet on Cedar street and extenning westwardly of that width in length or depth 190 feet to the alley aforesaid; all coal and other minerals excepted; all improved with a large double 2-story frame dwelling house with a basement, and a barn on the rear of the lot, fruit and ornamental trees, outbuildings, etc.

TERMS OF SALE.—$200 down on day of sale, balance on confirmation of sale and delivery of deed.

T. R. MARTIN,
Administrator.

A PRIZE. Send six cents for postage, and receive free, a costly box of goods which will help you to more money right away than anything else in this world. All, of either sex, succeed from first hour. The broad road to fortune opens before the workers, absolutely sure. At once address. TRUE & Co., Augusta, Maine.

WIN more money than at anything else by taking an agency for the best selling book out. Beginners succeed grandly. None fail. Terms free. HALLETT BOOK CO., Portland, Maine.

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ORPHANS' COURT SALE.

Estate of John S. Jenkins, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Wednesday, December 17, 1884, at 10 o'clock A. M., the following real estate:

All that lot of land in the township of Plains, on the main road from Wilkes-Barre to Pittston, beginning at a corner on the main road, thence along lands of C. H. Stoffh 211 feet to lands of Aaron Hilbert, thence along Hilbert's land 50 feet to a corner, thence along lands of Hannah L. Jenkins 219 5-10 feet to the main road, thence along said main road 50 feet to the place of beginning; excepting all coal and other minerals; All improved with a 2-story frame house and other outbuildings thereon

TERMS OF SALE.—30 per cent. down and balance on confirmation of sale.

H. L. JENKINS,
DICKSON & ATHERTON, Administrator,
47-49 Attorneys.

AUDITOR'S NOTICE.

In re partition of the real estate of Joseph P. Schooley, deceased. The undersigned, an auditor appointed by the Orphans' Court of Luzerne county, to ascertain whether there are any liens or other incumbrances on the real estate taken in partition in the said estate affecting the interest of the parties and to marshall the same; also to ascertain and apportion the costs and expenses of partition, and also to report amount of recognizance to be given by the accepting heirs, hereby gives notice that he will attend to the duties of his appointment at his office, No. 18 South Franklin street, Wilkes-Barre, Pa., on Wednesday, the 17th day of December, A. D. 1884, at 10 o'clock A. M., when and where all parties interested are requested to present their claims before the undersigned, or forever be debarred from coming in upon said fund.

HENRY W. DUNNING,
47-50 Auditor.

AUDITOR'S NOTICE.

In re partition of the real estate of John R. Brodhead, deceased. The undersigned, an auditor appointed by the Orphans' Court of Luzerne county to ascertain whether there were any liens or other incumbrances on the real estate taken in partition in said estate affecting the interests of the parties, and to marshal the same; also to ascertain and apportion the expenses of partition, and also to report amount of recognizance to be given by the accepting heirs, hereby gives notice that he will attend to the duties of his appointment at his office, No. 19 Harvey Buildings, on Franklin street, Wilkes-Barre, Pa., on Monday, the 22d day of December, A. D. 1884, at 10 o'clock A. M., when and where all parties interested are requested to present their claims before the undersigned, or forever be debarred from coming in upon said fund.

C. F. BOHAN,
48-51 Auditor.

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HENRY R. LINDERMAN,

a member of the Bar of Monroe county, will apply for admission at November term, 1884, to practice as an attorney in the several courts of Luzerne county. 46-48

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NEW YORK OBSERVER,

New York.

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 164, October term, 1884. Libel in divorce a vinculo matrimonii. Emma J. Beebe, by her next friend, Mary W. Ensign, *v.* Justin W. Beebe. The alias subpœna in the above case having been returned, "That the said Justin W. Beebe cannot be found in Luzerne county," you, the said Justin W. Beebe, respondent, are required to appear on Monday, January 12, 1885, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
W. J. HUGHES, Sheriff.
Attorney. 48-51

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 46, February term, 1885. Libel in divorce a vinculo matrimonii. Sussanna Hoch, by her next friend, Emanuel Rogers, *v.* Stephen Hoch. To Stephen Hoch—Please take notice, that the court has granted a rule on you to show cause why a divorce a vinculo matrimonii shall not be made and entered in favor of the libellant, service of the original and alias subpœna having failed on account of your absence. Returnable on Saturday, December 13, A. D. 1884, at 10 o'clock A. M.

HARRY HAKES,
47-48 Solicitor.

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LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county. No. 170½, October term, 1884. Libel in divorce a vinculo matrimonii. Mary Meyer, by her next friend, Isaac Livingston, v. Henry Meyer. The alias subpœna in the above case having been duly returned, "That the said Henry Meyer cannot be found in Luzerne county." You, the said Henry Meyer, respondent, are required to appear on Monday, January 12, 1885, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.
E. S. OSBORNE,
E. P. & J. V. DARLING,
47-50 Attorneys.

LUZERNE COUNTY, ss:
In the Court of Common Pleas of said county No. 140, October term, 1884. Libel in divorce a vinculo matrimonii. E. W Rutter *v.* Emma J. Rutter. The alias subpoena in the above case having been returned, "that the said Emma J. Rutter cannot be found in Luzerne county." you, the said Emma J. Rutter, respondent, are required to appear on Monday, January 12, A. D. 1885, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.
J. D. HAYES,
Attorney. 48-51

ESTATE OF PETER HOLMAN, LATE OF Hazle township, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES HOLMAN,
Hazleton, Pa.
C. W. KLINE,
Attorney. 47-52

ESTATE OF MARY H. WILLIAMSON, LATE of Wilkes-Barre, Pa., deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. R. BRUNDAGE,
43-48 Wilkes-Barre, Pa.

ESTATE OF THOMAS GILES, LATE OF Hazleton, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH A. GILES,
CHARLES BOMBOY,
GEO. H. TROUTMAN, Hazleton.
44-49 Attorney.

ESTATE OF CATHARINE, TREFFEISEN, late of Pittston, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHRISTIAN TREFFEISEN
GUSTAV HAHN, Pittston, Pa.
Attorney. 48-53

ESTATE OF THOMAS FARRALL, LATE OF Wilkes-Barre, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

H. H. DERR,
H. A. FULLER, Wilkes-Barre, Pa.
Attorney. 48-53

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HARRY HALSEY,
a member of the Bar of Philadelphia county, will apply for admission at November term, 1884, to practice as an attorney in the several courts of Luzerne county. 46-48

ESTATE OF JOHN JONES, LATE OF Hazleton, deceased.
Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH RUDDICK.
45-50 Executrix.

ESTATE OF PETER BEISEL, LATE OF Butler township, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BARBARA BEISEL,
47-52 Drums, Pa.

ESTATE OF ELIJA KRICKBAUM, LATE OF Huntington township, deceased.
Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. B. KRICKBAUM,
47-52 Town Hill, Pa.

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ESTATE OF FRANK L. SNYDER, LATE OF Dallas, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CORA L. SNYDER,
48-53 Dallas, Pa.

ESTATE OF JAMES COWANS, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ROBERT COWANS,
C. W. KLINE, Hazleton, Pa.
Attorney. 48-53

ESTATE OF JOHN POLSUE, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARRIET A. POLSUE,
D. M. JONES, Wilkes-Barre, Pa.
Attorney. 48-53

ESTATE OF MICHAEL READING, LATE OF Wilkes-Barre, Pa., deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

THOMAS F. SHERIDAN,
P. H. CAMPBELL, Wilkes-Barre, Pa.
Attorney. 43-48

ESTATE OF RODMAN C. BROWNING, LATE of Kingston horough, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands, to present the same, without delay, to

ELIZABETH S. BROWNING,
H. W. DUNNING, Kingston, Pa.
46-51 Attorney.

ESTATE OF SAMUEL WHITEBRED, LATE of Hollenback township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN P. WHITEBRED,
W. S. McLEAN, Hobbie, Pa.
Attorney. 47-52

ESTATE OF SARAH MYERS, LATE OF Newport township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARRIET FAIRCHILD,
B. M. ESPY, Alden, Pa.
Attorney. 47-52

ESTATE OF CATHARINE MAY SNYDER, late of Hollenback, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

B. M. ESPY,
43-48 Wilkes-Barre, Pa

ESTATE OF ROBINSON BOYD, LATE OF Luzerne, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES M. BOYD,
45-50 Luzerne, Pa.

ESTATE OF MARY QUINN, LATE OF JENkins township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MICHAEL QUINN,
45-50 Port Blanchard.

ESTATE OF PENELOPE E. B. CRAWFORD, late of Cincinnati, Ohio, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

OSCAR J. HARVEY,
46-51 Wilkes-Barre, Pa.

ESTATE OF DAVID SCOTT KIDDER, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES H. KIDDER,
46-51 Wilkes-Barre, Pa.

ESTATE OF HENRY KANE, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY KANE,
46-51 Wilkes-Barre, Pa.

ESTATE OF PETER HUSHBUT, LATE OF Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HENRY HUSHBUT,
45-50 Pittston, Pa.

W. S. PARSONS,

ALDERMAN,

WILKES-BARRE, PA.

CHAS. D. FOSTER,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

WILLIAM S. McLEAN,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, DECEMBER 5, 1884. NO. 49.

Court of Common Pleas of Luzerne County.

RICE AND BROTHER *v.* SMITH.

Usury—Action to recover back.

1. A judgment confessed is conclusive and cannot be attacked collaterally.
2. An action cannot be maintained to recover back usury included in a judgment.
3. When a debtor pays usurious interest on a judgment, which is subsequently revived and he then pays the revived judgment, he cannot recover back such payments by action. *Semble.*
4. A debtor paid usurious interest on a judgment for the years 1874, 1875, and 1876; in November, 1877, the judgment was amicably revived; in making up the amount of the revived judgment the parties added to the face of the original judgment, interest from 1876, at ten per cent., thus offsetting the payments in the years named against the interest for the same years; in 1880. this judgment was paid and within six months thereafter suit was brought to recover back the usury iucluded in the judgment and the usury paid in the three years named. *Held*, that he was not entitled to recover; his remedy was to have the judgment opened.

Rule for a new trial.

The opinion of the court was delivered November 10, 1884, by

RICE, P. J.—This is an appeal from the judgment of a justice of the peace in an action brought to recover usurious interest alleged to have been paid by the plaintiffs to the defendant. The facts shown on the trial were substantially as follows: May 13, 1872, the plaintiffs borrowed from the defendant $1,000, and gave their judgment note for $1,100, payable in one year without interest, the extra $100 being the interest at ten per cent. for one year on the $1,000 borrowed. This note was entered of record to January term, 1873. On May 13, in each of the years 1874, 1875, and 1876 the plaintiffs paid the interest on the whole sum of $1,100 at the rate of ten per cent. No interest was thereafter paid until the final payment of the debt, but on November 9,

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1877, the judgment was amicably revived. The parties made up the amount of this judgment by adding to the face amount of the original judgment interest thereon at the rate of ten per cent. from May 13, 1876. The judgment was paid and satisfied in January, 1880, and within six months thereafter the present action was commenced. We instructed the jury that the plaintiffs were not entitled to recover. Was this instruction erroneous?

First; A judgment confessed is conclusive and cannot be attacked collaterally by the defendant. In this respect it does not differ in legal effect from a judgment rendered on the verdict of a jury. The court will, however, in such a case, upon the defendant showing a good defense in law or equity, open it and allow him an opportunity to controvert the cause for which it was entered. Montague *v.* McDowell, 3 Out. 265. Hence, notwithstanding the conclusive effect in a collateral proceeding of the original judgment, the court would have been authorized, upon the defendant's application, to open it and permit him to show that usurious interest was included in it; Montague *v.* McDowell, *supra*; Hopkins *v.* West, 2 Nor. 109; and this, too, notwithstanding the amicable revival. Walter *v.* Briesch, 5 Nor. 457; Coss *v.* Lewis, 1 Kulp, 29. But after the judgment had been revived it was incompetent for the plaintiffs, in an action such as this, to show that the original judgment included usurious interest, or that the interest added when the judgment was revived, was computed at an usurious rate. The judgment having been paid, the plaintiffs cannot in this action go behind the record and claim that part of it was not justly due, either from usury or any other cause. Hopkins *v.* West, *supra*; Rutherford *v.* Boyer, 3 Nor. 347; Carlisle *v.* Bindley, 10 Nor. 229; Montague *v.* McDowell, *supra*. Therefore the claim of the plaintiffs, as originally made, to recover the extra interest ($40) included in the original judgment, and the extra interest from May 13, 1876, included in the amount for which the judgment was amicably revived, cannot be sustained. Their counsel now concede this, but insist that they are entitled to recover the extra interest paid in the years 1874, 1875, and 1876. If there had been no revival they would have been entitled to recover. Hopkins *v.* West, *supra*. What, then, was the effect of that judgment?

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Second; If the judgment of revival had been by adversary proceedings, it would have been conclusive of every matter legally brought in issue. If the present plaintiffs had in that issue proved, and claimed credit for, these payments, it would not be competent for them in this action to prove that the judgment was erroneous. So, also, if in reviving the judgment amicably, they brought in these payments and they were allowed, it seems to us that they exhausted their remedies under the act, and if, by reason of the fact that interest was computed at an usurious rate, judgment was entered for more than was justly due, their remedy was to have it opened. But the plaintiffs insist that these payments were not considered in making up the revived judgment, and hence that judgment cannot be pleaded in bar of this action. There is strong reason for holding that it must be legally presumed that they were considered; in other words, that when a debtor pays usurious interest on a judgment which is subsequently revived, and he then pays the revived judgment, he cannot in this action recover such payment. See Rutherford *v.* Boyer, 3 Nor. 347. But, however this may be, I cannot agree with the counsel in their contention that, in liquidating the amount for which the judgment was to be revived, these payments were not, in fact, considered. Let us suppose that in making up the amount of the revived judgment, interest had been computed from May, 1873, to the date of revival, and then these payments had been deducted, it could not then have been said that they had not been considered and allowed. Practically, this was what the parties did. The payments for the three years named were set off against the interest for the same years, and judgment entered for the balance, and thus the defendants got credit for them. The usury, after all, was included in the revived judgment. It resulted, not because these payments were not allowed, but because the interest was computed at an excessive rate. We cannot escape the conclusion that, if the plaintiffs recover here, the effect will be to impeach that judgment collaterally—to declare that it was entered for more than was justly due—and this, under the authorities cited, cannot be done. While the way in which the plaintiffs state their claim gives plausibility to their argument, it seems to us, nevertheless, in effect, an effort to recover usury

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included in the judgment; and hence the case comes within the authorities cited. Their remedy was to have the judgment opened. Unopened it was conclusive.

The rule is discharged.

H. B. Payne, for plaintiffs.
Charles D. Foster, for defendant.

BOOK NOTICE.

MYERS' FEDERAL DECISIONS, VOL. X.

In our review of this book (ante p. 425) we unwittingly did an injustice. It is true that the Dartmouth college case is not contained in it, but if we had borne in mind the rules upon which the compilation is made, we should not have written as we did. The publishers now call our attention to the following rule, printed in Vol. I., p. 9: "In some cases * * * * the name of a case will be followed by a star. This indicates that the case is merely cited or digested and thrown out, not to appear in full in any part of the work; cases in the notes not so designated are assigned to some other subject." The Dartmouth college case in Vol. X. is "not so designated," and will, as a matter of fact, appear in full in a future volume under "Constitution and Laws." We beg pardon and gladly make the correction.

In 1772 Lord Mansfield decided that there was no property in slaves, and in answer to the plea of the vast property, amounting to millions, at issue on the question, he uttered the memorable maxim: "Fiat Justitia ruat Cœlum." In 1768, in an equally celebrated case, he made use of the same maxim.

Sir Thomas Browne has, in his "Religio Medici," A. D. 1642, "Ruat cœlum fiat voluntas tua." A recent writer says the phrase used by Lord Mansfield is found in Ward's "Simple Cobbler of Aggawam in America," the first edition of which was printed in 1645.

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ORPHANS' COURT SALE.

Estate of Rodman C. Browning, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, in the city of Wilkes-Barre, Pa., on Saturday, December 27, A. D 1884, at 10 o'clock A. M., the following real estate:

1. All that lot of land in the township of Jenkins, beginning at a corner in line of lands of W. D. Hale, thence 5 perches along said Hale's land to corner in line of said Hale's land and corner of lot No. 18, thence 8 perches to corner in centre of a street called Main street, thence along said Main street 5 perches to a corner, and thence 8 perches to the beginning; containing 40 perches of land, strict measure, and being lot No. 17 on a plot and survey of the lands late of Isaiah Hale

2. Also, all that lot of land in Jenkins township, beginning at a corner in centre of said Main street and corner of lot No. 27 on said plot and survey now occupied by Ira ————, thence 8 perches to a corner in centre of an alley No'd 4 on said plot and survey, thence along said alley 5 perches to a corner, thence 8 perches to centre of said Main street, and thence along said Main street 5 perches to the beginning; containing 40 perches of land, strict measure, and having thereon 1 frame dwelling house, and being lot No. 26 on said plot and survey.

3. Also, all that lot of land in Jenkins township, beginning at a corner in line of lands of the Pennsylvania Coal Company and corner of lot No. 22 on said plot and survey, thence 11 6-10 perches to corner in centre of Main street aforesaid, thence along said street 4 perches to corner, thence about 12 perches to corner in said Pennsylvania Coal Company's land, and thence along same about 4½ rods to the place of beginning; containing about 49 perches of land, more or less, and being part of lot No. 23 on said plot and survey.

4 Also, the undivided two-thirds interest in that lot of land in Jenkins township being No. 18 on said plot and survey, beginning at a corner in line of W. D. Hale's land and corner of lot No. 17 hereinbefore described, thence along said Hale's line 5 perches to a corner, thence 8 perches to a corner in centre of said Main street, thence along same 5 perches to corner of lot No. 17 aforesaid, and thence by it 8 perches to the beginning; containing 40 perches of land, strict measure.

5. Also, all the undivided one-third interest in that lot of land in Jenkins township, being Nos. 33 and 34 on said plot and survey, beginning at a corner in line of lands of the Pennsylvania Coal Company, and in centre of alley No. 2 on said plot and survey, thence alond said alley 4 6-10 perches to a corner, thence along alley No. 4, 24 5-10 perches to a corner, thence along alley No. 3, 11 3-10 perches to corner in said Coal Company's line, and thence along same 25 7-10 perches to the beginning; excepting and reserving all the coal and other minerals and privilege to erect npon lot No. 34 suitable machinery for sinking a shaft and elevating the coal aforesald.

TERMS OF SALE.—One-third down, one-third of balance on confirmation of sale and delivery of deed, and balance, with interest from confirmation, in six months from said confirmation of sale. Deferred payments to be secured by bond and mortgage on the premises.

ELIZABETH S. BROWNING,
HENRY W. DUNNING, Administratrix
48-50 Attorney.

ORPHANS' COURT SALE.

Estate of Thomas C. Harkness, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Saturday, the 27th day of December, A. D 1884, at 10 o'clock A. M., the following valuable real estate, to wit:

1. All that lot of land on the westerly side of Franklin street, in the city of Wilkes-Barre, beginning at a corner on said Franklin street by lands of the estate of Frederick McAlpine, deceased, thence by the same 225 feet to a corner of lot of William McDermott, thence by the same and lot of George Farris 50 feet to a corner by lands now or late of E. H. Chase, thence by the same 225 feet to a corner on said Franklin street, thence along said street 50 feet to the place of beginning; containing 11,250 square feet of land more or less; improved, with a large 2-story brick dwelling house with mansard roof, and all modern improvements.

2. The surface of all that lot of land in the city of Wilkes-Barre, beginning at a corner of Andover street and Arch street in said city, thence along said Andover street about 880 feet to Grove street, thence along said Grove street about 300 feet to Spring street, thence along said Spring street 608 6-10 feet to Arch street, thence along said Arch street about 403 feet to the place of beginning, being lots Nos. 20 to 35, both included, and lots Nos. 52 to 64, both included, in the plan of lots known as the Lockhart lots.

3. The surface of all that lot of land in the city of Wilkes-Barre, beginning at a corner of Main street and Andover street in said city, thence along said Andover street about 208 feet to a corner on a 24 foot alley, thence along said alley about 155 feet to a corner on lot No. 90 in the plot hereinafter referred to, thence along said lot No. 90 about 200 feet to a corner on said Main street, thence along said Main street about 100 feet to the place of beginning, being lots Nos. 88 and 89 in the plan of lots known as the Lockhart lots. Lot No. 88 is improved with a frame dwelling house.

TERMS OF SALE.—On piece No. 1, one-fourth down on day of sale, one-fourth on confirmation of sale and delivery of deed, and the balance, with interest, from confirmation as follows: one-half of balance in six months, and remainder in one year from confirmation. As to pieces Nos. 2 and 3, $25 on each lot down, $25 on confirmation of sale and delivery of deed, and balance, with interest, from confirmation as follows: one-half of balance in one year, and remainder in two years from confirmation. Pieces Nos. 2 and 3 will be sold either in single lots or in blocks. Deferred payments in all cases to be secured by bond and mortgage on the premises.

ISAAC LIVINGSTON,
E. S. OSBORNE, Administrator.
R. D. EVANS,
Attorneys. 48-50

ORPHANS' COURT SALE.

Estate of Anna Elizabeth Meikrantz, deceased. By virtue of an order of the Orphan's Court of Luzerne county, there will be exposed to public sale, on the premises in Hazleton borough, on Saturday, December 20, A. D. 1884, at 1 o'clock P. M., the following real estate:

All that lot of land on the west side of Cedar street, in the borough of Hazleton, being the lots marked Nos. 4 and 5 of square No. 100 in the plan of said borough, beginning at a point on the west side of Cedar street, 90 feet north of Tamarack street, thence along Cedar street 60 feet to a street, thence along said street 190 feet to a certain 20-feet wide alley, thence along said alley 60 feet to lot No. 3, thence 190 feet to the place of beginning; containing 60 feet on Cedar street and extenning westwardly of that width in length or depth 190 feet to the alley aforesaid; all coal and other minerals excepted; all improved with a large double 2-story frame dwelling house with a basement, and a barn on the rear of the lot, fruit and ornamental trees, outbuildings, etc.

TERMS OF SALE.—$200 down on day of sale, balance on confirmation of sale and delivery of deed.

T. R. MARTIN,
48-50 Administrator.

A PRIZE. Send six cents for postage, and receive free, a costly box of goods which will help you to more money right away than anything else in this world. All, of either sex, succeed from first hour. The broad road to fortune opens before the workers, absolutely sure. At once address. TRUE & Co., Augusta, Maine.

WIN more money than at anything else by taking an agency for the best selling book out. Beginners succeed grandly. None fail. Terms free. HALLETT BOOK CO., Portland, Maine.

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ORPHANS' COURT SALE.

Estate of John S. Jenkins, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Wednesday, December 17, 1884, at 10 o'clock A. M., the following real estate:

All that lot of land in the township of Plains, on the main road from Wilkes-Barre to Pittston, beginning at a corner on the main road, thence along lands of C. H. Stoffh 211 feet to lands of Aaron Hilbert, thence along Hilbert's land 50 feet to a corner, thence along lands of Hannah L. Jenkins 219 5-10 feet to the main road, thence along said main road 50 feet to the place of beginning; excepting all coal and other minerals; All improved with a 2-story frame house and other outbuildings thereon.

TERMS OF SALE.—30 per cent. down and balance on confirmation of sale.

H. L. JENKINS,
DICKSON & ATHERTON, Administrator,
47-49 Attorneys.

ORPHANS' COURT SALE.

Estate of Owen Finnerty, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, on Saturday, December 27, 1884, at 4 o'clock P. M., the following real estate:

The surface of all that lot of land in Plymouth bounded on the east by Harris street, on the south by land of John J. Shonk, on the west and north by land of William H. Cool and others; being 50 feet in front on Harris street and 150 feet deep, and containing about 7,500 square feet of surface, more or less: all improved with 1 small 2-storied frame dwelling house, a wash house, and other outbuildings thereon.

TERMS OF SALE.—$200 down, 25 per cent. of balance on confirmation of sale and delivery of deed, and balance, with interest from confirmation of sale, in six months from confirmation of sale, deferred payments to be secured by bond and mortgage on the premises.

OWEN FINNERTY,
GEO. W. SHONK, Administrator.
Attorney. 49-5t

AUDITOR'S NOTICE.

In re partition of the real estate of Joseph P. Schooley, deceased. The undersigned, an auditor appointed by the Orphans' Court of Luzerne county, to ascertain whether there are any liens or other incumbrances on the real estate taken in partition in the said estate affecting the interest of the parties and to marshall the same; also to ascertain and apportion the costs and expenses of partition, and also to report amount of recognizance to be given by the accepting heirs, hereby gives notice that he will attend to the duties of his appointment at his office, No. 18 South Franklin street, Wilkes-Barre, Pa., on Wednesday, the 17th day of December, A. D. 1884, at 10 o'clock A. M., when and where all parties interested are requested to present their claims before the undersigned, or forever be debarred from coming in upon said fund.

HENRY W. DUNNING,
47-50 Auditor.

AUDITOR'S NOTICE.

In re partition of the real estate of John R. Brodhead, deceased. The undersigned, an auditor appointed by the Orphans' Court of Luzerne county to ascertain whether there were any liens or other incumbrances on the real estate taken in partition in said estate affecting the interests of the parties, and to marshal the same; also to ascertain and apportion the expenses of partition, and also to report amount of recognizance to be given by the accepting heirs, hereby gives notice that he will attend to the duties of his appointment at his office, No. 19 Harvey Buildings, on Franklin street, Wilkes-Barre, Pa., on Monday, the 22d day of December, A. D. 1884, at 10 o'clock A. M., when and where all parties interested are requested to present their claims before the undersigned, or forever be debarred from coming in upon said fund.

C. F. BOHAN,
48-51 Auditor.

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NEW YORK OBSERVER,

New York.

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 164, October term, 1884. Libel in divorce a vinculo matrimonii. Emma J. Beebe, by her next friend, Mary W. Ensign, *v.* Justiu W. Beebe. The alias subpœna in the above case having been returned, "That the said Justin W. Beebe cannot be found in Luzerne county," you, the said Justin W. Beebe, respondent, are required to appear on Monday, January 12, 1885, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
W. J. HUGHES, Sheriff.
Attorney. 48-5t

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 140, October term, 1884. Libel in divorce a vinculo matrimonii. E. W. Rutter *v.* Emma J. Rutter. The alias subpœna in the above case having been returned, "that the said Emma J. Rutter cannot be found in Luzerne county." you, the said Emma J. Rutter, respondent, are required to appear on Monday, January 12, A. D. 1885, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
J. D. HAYES, Sheriff.
Attorney. 48-5t

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LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 170¾, October term, 1884. Libel in divorce a vinculo matrimonii. Mary Meyer, by her next friend, Isaac Livingston, v. Henry Meyer. The alias subpœna in the above case having been duly returned, "That the said Henry Meyer cannot be found in Luzerne county." You, the said Henry Meyer, respondent, are required to appear on Monday, January 12, 1885, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.

E. S. OSBORNE,
E. P. & J. V. DARLING,
47-50 Attorneys.

NOTICE IS HEREBY GIVEN THAT AN application will be made to the Governor of Pennsylvania, on or before the 27th day of December A. D. 1884, by Calvin Parsons, R. J. Flick, H. Baker Hillman, A. A. Stirling, and A. J. Davis under the Act of Assembly entitled "An Act to Provide for the Incorporation and Regulation of Certain Corporations," approved April 29th, 1874, and the supplements thereto, for the re-charter of the Warrior Run Mining Company, to be called the Warrior Run Mining Company, the character and object of which is to purchase, lease, hold, sell, and convey coal lands, to mine and quarry coal therefrom, and to prepare coal for market, to buy, sell, and ship coal, and to transact all business connected therewith, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of said Act of Assembly, and supplements thereto.

E. P. & J. V. DARLING,
49-51 Solicitors.

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ESTATE OF PETER BEISEL, LATE OF Butler township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BARBARA BEISEL,
47-52 Drums, Pa.

ESTATE OF ELIJA KRICKBAUM, LATE OF Huntington township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. B. KRICKBAUM,
47-52 Town Hill, Pa.

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ESTATE OF FRANK L. SNYDER, LATE OF Dallas, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CORA L. SNYDER,
48-53 Dallas, Pa.

ESTATE OF ROBINSON BOYD, LATE OF Luzerne, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES M. BOYD,
45-50 Luzerne, Pa.

ESTATE OF MARY QUINN, LATE OF JENkins township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MICHAEL QUINN,
45-50 Port Blanchard.

ESTATE OF PENELOPE E. B. CRAWFORD, late of Cincinnati, Ohio, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

OSCAR J. HARVEY,
46-51 Wilkes-Barre, Pa.

CHAS. D. FOSTER,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

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ESTATE OF ADAM BACHMAN, LATE OF Hazleton, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHRISTIAN BACHMAN,
49-2 Hazleton, Pa.

ESTATE OF ELLEN D. COOLEY, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

E. P. DARLING,
49-2 Wilkes-Barre, Pa.

ESTATE OF SAMUEL WHITEBRED, LATE of Hollenback township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN P. WHITEBRED,
W. S. McLEAN, Hobbie, Pa.
Attorney. 47-52

ESTATE OF JOHN POLSUE, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARRIET A. POLSUE,
D. M. JONES, Wilkes-Barre, Pa.
Attorney. 48-53

ESTATE OF RODMAN C. BROWNING, LATE of Kingston horough, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands, to present the same, without delay, to

ELIZABETH S. BROWNING,
H. W. DUNNING, Kingston, Pa.
46-51 Attorney.

ESTATE OF SARAH MYERS, LATE OF Newport township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARRIET FAIRCHILD,
B. M. ESPY, Alden, Pa.
Attorney. 47-52

ESTATE OF DAVID SCOTT KIDDER, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES H. KIDDER,
46-51 Wilkes-Barre, Pa.

ESTATE OF THOMAS GILES, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH A. GILES,
CHARLES BOMBOY,
GEO. H. TROUTMAN, Hazleton.
44-49 Attorney.

ESTATE OF HENRY KANE, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY KANE,
46-51 Wilkes-Barre, Pa

ESTATE OF PETER HUSHBUT, LATE OF Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HENRY HUSHBUT,
45-50 Pittston, Pa

ESTATE OF CATHARINE McGUIRE, LATE of Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

JOHN GORMAN.
49-2 Hazleton, Pa.

ESTATE OF PETER HOLMAN, LATE OF Hazle township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES HOLMAN.
C. W. KLINE, Hazleton, Pa
Attorney. 47-52

ESTATE OF CATHARINE, TREFFEISEN, late of Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment and those having claims or demands to present the same, without delay, to

CHRISTIAN TREFFEISEN
GUSTAV HAHN, Pittston, Pa
Attorney. 48-53

ESTATE OF THOMAS FARRALL, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

H. H. DERR,
H. A. FULLER, Wilkes-Barre, Pa
Attorney. 48-53

ESTATE OF JOHN JONES, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH RUDDICK.
45-50 Executrix.

ESTATE OF JAMES COWANS, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ROBERT COWANS,
C. W. KLINE, Hazleton, Pa.
Attorney. 48-53

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, DECEMBER 12, 1884. No. 50.

Court of Common Pleas of Luzerne County.

VAN WHY *v.* BURGUNDER.

Certiorari—Parol evidence on hearing.

1. The fact that notice of a hearing before a justice, after an indefinite adjournment of the case, was not given to the defendant may be shown by parol.
2. So, also, it may be shown that the plaintiff did not appear on the day that the record shows judgment to have been rendered against the defendant by default; that the defendant did appear, and that the trial was indefinitely adjourned.

Certiorari.

The opinion of the court was delivered November 24, 1884, by RICE, P. J.—The record shows that the defendant was personally served; that on March 10, 1871, at the request of both parties, the case was adjourned until April 11, 1871; that on the last named date the plaintiff appeared and judgment was entered in his favor by default. This writ was not sued out until May, 1872. On the face of the record we discover no error for which the judgment could now be reversed. True, the record does not show the hour at which the plaintiff appeared and judgment was entered, but this is not made the subject of exception, and is at the most an irregularity which should have been taken advantage of by certiorari sued out within twenty days. But the defendant testifies, that he appeared on the day last named with his counsel, and, as the plaintiff did not appear, the case was continued indefinitely; that he was subsequently notified by the justice that judgment had been entered against him, and he thereupon entered bail for appeal; that when he subsequently demanded a transcript the justice declined to give it to him, because, as the justice declared, the plaintiff had withdrawn the suit; that he heard no more of the case until the following year when an exe-

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cution was issued, and then he immediately sued out this writ. This evidence is uncontradicted and establishes the fact, that without any fault of his, the defendent was deprived of a hearing and an opportunity to defend either before the justice or in this court on appeal. It is now too late to question the competency of the evidence. "The twenty days' limitation does not apply to cases in which the justice has no jurisdiction of the parties or the subject matter, and he has no jurisdiction of the former where they are not legally summoned. The fact that notice was not given may be proved by parol. So a judgment obtained by any trick or fraud ought to be reversed if the *certiorari* be taken within a reasonable time after it is discovered." Lacock *v.* White, 7 H. 495. See also Shell *v.* McConnell, 1 Pears. 27. There are many other cases which we need not cite.

The judgment is reversed.

C. R. Banks, for plaintiff.
Gustav Hahn, for defendant.

Court of Quarter Sessions of Luzerne County.

IN RE COUNTY BRIDGE.

When the foreman of the grand jury recommending the building of a county bridge, was also one o the original petitioners, and it appears that the action of the grand jury was affected by that fact, the court will refuse their approval of the report.

Rule to strike off the approval by the court of the report of the grand jury.

The opinion of the court was delivered October 27, 1884, by

WOODWARD, J.—It is undoubtedly true, as a general rule, that a report of a grand jury under the bridge act of April 16, 1870 (P. L. 1199) cannot be inquired into or impeached collaterally. But in the present case, independently of the affidavits and depositions submitted, it appears from the records of the court that Milton F. Williams, who was the foreman of the grand jury at the November session of 1881, which recommended the building

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of the bridge in question, was also one of the original petitioners for the bridge. This, in our judgment, is fatal to the report. Mr. Williams has been examined as a witness, and his deposition is before us. In this he makes the following statement: "the bridge was passed by the grand jury—it looked as if in compliment to me as foreman of the grand jury, they knowing I was from Nescopeck. I know but little of the location of said bridge. I was not then acquainted with the location of said bridge, nor am I now." While we are not unmindful of the rule adopted in the case of Lessee of Cluggage *v.* Swan, 4 Binney, 159, that "the testimony of jurors should not be admitted to invalidate their verdicts," we hold that the rule does not apply to a case like the present one. The township did not, and could not, have an opportunity to challenge the array of grand jurors, and yet the township is the party interested, inasmuch as upon it falls the expense of building the abutments and piers, and of the filling, in and about the abutments. The deposition shows that these expenses would, in the present instance, be very great, because of the nature of the ground on either side of the proposed bridge. We refer, in conclusion, to the case of the County *v.* Supervisors of Plymouth, 11 Luz. Leg. Reg. 258.

The rule is made absolute.

Court of Common Pleas of Luzerne County.

GIMBER *v.* FEHLINGER.

Certiorari—Costs in.

The opinion of the court was delivered November 24, 1884, by

RICE, P. J.—If the former judgment had been reversed at the instance of the plaintiff below, the present judgment being for a less amount, he would not have been entitled to recover costs in this action. Act March 20, 1810, P. D. 608, pl. 29. But that judgment was not reversed at his instance, but at the instance of the defendant below. Why, then, should he not recover the costs of this action? After a careful examination of the section

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we see no reason for doubting his right thereto. The case does not come within the terms of the act, and there is no such ambiguity or doubt as to their meaning as would authorize us to enlarge them by construction. While it is undoubtedly competent to show by parol that a justice acted fraudulently, corruptly, or partially in rendering a judgment, the parol evidence in the case fails to establish the fact.

The judgment is affirmed.

BOOK NOTICE.

LAW OF MECHANICS' LIENS in Pennsylvania, by Ovid F. Johnson, of the Philadelphia bar. Philadelphia: Rees Welsh & Company, 1884.

The publishers' announcement is as follows:

"The necessity of a book upon this subject now is apparent, when one considers the confused condition into which the system has in a measure fallen. The legislation upon the subject having grown to the stupendous bulk of 116 acts of assembly, which have been construed by the courts in almost 700 printed opinions. An impression to some extent prevails that recent enactments have reduced to perfection our mechanics' lien system, but this is erroneous. The work, although written as a book of practice for lawyers, is nevertheless equally valuable to mechanics, architects, builders, and material men, as it departs from the form, so difficult to comprehend, of law books, by presenting the subject in language that every plain man of common intelligence can easily understand. The arrangement is complete, each step to take being set out in its proper order. A series of forms are also given. * * * The index is of such a character as to enable one to immediately turn to the detail of any branch of the subject. The work contains 512 pages of closely printed valuable information, a knowledge of which may be the means of saving much time, trouble, and money to the mechanic or material man purchasing it. The high and well-known standing of the author as a lawyer at the Pennsylvania bar, is a sufficient guarantee of the value of this work as an authority."

We heartily endorse the above and it is seldom that we have seen a book prepared with so much care and precision. It should be in the library of every lawyer in active practice.

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COMMON PLEAS TRIAL LIST—JANUARY TERM, 1885.

FIRST WEEK—JANUARY 12, 1885.

NO.	PL'FFS' ATT'YS.	PLAINTIFFS.	DEFENDANTS.	DEF'TS' ATT'YS.	NO.	TERM.	YR.	ACTION.	PLEA.
1	Palmer	Cynthia E. Louder	F. B. Wernett	J. T. L.	247	Nov	1883	Sheriff's inter	Usual plea.
2	D. & A.	Rosina Palmer	Cole, Grace & Monks	McLean	43	Jan.	1884	Sheriff's inter	Usual plea.
3	Strauss	S. Trier	L. & M. Kahn	McLean, G.	66	Oct.	1884	Sheriff's inter	Usual plea.
4	J. L. L.	John Campbell	Wells, Torbert & Co	E. G. B.	67	Oct.	1884	Sheriff's inter	Usual plea.
5	Darl's, P., G.M.L	G. R. Wilson & Co	D. W. Evans	J. L. L., H. B.	126	Nov	1884	Sheriff's inter	Usual plea.
6	Ricketts	Edward Laughlin	J. S. Miller	Gates	477	Feb	1871	D. S. B.	Nil debit, payment with leave, &c.
7	McCart., E. G. B	J. D. Cooper, et ux, et al	Borough of Kingston	Darte	407	April	1875	Issue	Not guilty.
8	Bulkeley, Rice	Jackson Johnson	Adam Behee, et al	Osborne	969	Nov	1876	Replevin	
9	Bulkeley, Rice	Jackson Johnson	Adam Behee, et al	Osborne	188	Feb	1877	Replevin	
10	Bulkeley, Rice	Jackson Johnson	Adam Behee, et al	Osborne	868	April	1877	Replevin	
11	Payne	Hend'n Hayford, dec'd	John B. Smith	Osborne	1349	Sept	1878	Assumpsit	Non ass., payment with leave, setoff.
12	Ricketts, T.	Samuel Frauenthal	Thompson Derr & Bro.	Harding, D., P.	239	Jan.	1880	Case	Not guilty.
13	Chase	Wm. Stuart	Henry Johnson, et al	B & N	188	May	1881	Ejectment	Not guilty.
14	Jenkins	Evan J. Thomas, et al.	Lawrence Crogan, et al	Darte	97	June	1881	Ejectment	Not guilty.
15	Butler	H. S. Bailey	A. Behee	Osborne	206	Oct.	1881	Appeal	Non assumpsit, &c
16	Gates	John Kosek	Thomas Brodrick	McLean	62	Nov	1881	Tresp. vi et armis	Not guilty.
17	Darlings	Frank Turner	J. C. Tyrrell, et ux	J. B. R.	191	Nov	1881	Sci. fa. sur mort	Payment with leave, &c.
18	Gates, E. D. N.	Anthony Benscoter, dec	Jasper Winans	Osborne	44	Feb	1882	Ejectment	Not guilty.
19	McCartney	Henry Cohen	C. S. Stark, dec'd	Darlings, R.	81	Feb	1882	Assumpsit	Not Guilty, setoff, pay't w. l., &c.
20	Pike	Eliza W. Williams	James Burke, et al	Butler	594	May	1882	Ejectment	Not guilty.
21	Gates	David McDaniels	Daniel Sutliff	Harding, McG.	121	June	1882	Tresp. vi et armis	Not guilty.
22	McLean	Barney P. Boyle	Mackin & Boyle	J. L., J. L. L.	290	Oct.	1882	Case	Non assumpsit, pay't with leave, &c.
23	H. W. D., Payne	First Nat. B., Plymouth	S. S. Weller	Hines	676	Oct.	1882	Assumpsit	Non Assumpsit, setoff, &c.
24	McCartney	W. R. Barnes	Charles W. Ruggles	Shonk, Payne	806	Oct.	1882	Case	Not guilty.
25	McLean	Thomas Kennedy	Patrick Whalen, et al	McGahren	100	Nov	1882	Ejectment	Not guilty.
26	Hakes	Christopher Eypher	Francis Hoover	N. & N.	200	Jan.	1883	Ejectment	Not guilty.
27	Darte	Wm. Culver	John B. Smith	Osborne	131	Feb	1883	Case	Not guilty.
28	Payne	Fred. Reifenberg	George Hughes	Harding	213	Feb	1883	Case	Not guilty.
29	Reynolds	J. A. Brown	Barney Stroud	Payne, Darlings.	157	Mar	1883	Assumpsit	Non ass., p. w'l. &c., setoff, &c., s. of l.
30	Darte	Wm. B. Mitchell	C. H. Sharar	Osborne, E.	225	May	1883	Case	Non assumpsit, pay't with leave, &c.

SECOND WEEK—JANUARY 19, 1885.

1	Payne	C. Straw & Brother	David Mace	Gates	25	Feb	1870	D. S. B.	Payment.
2	Hahn	Gœpp & Sterne	Joseph Slocum	W. & R., L. H.	586	Feb	1871	Debt	Nil debit.
3	Ricketts, Palmer	Use of A. Robertson	Township of Hazle	Hoyt, Brundage.	443	April	1875	Assumpsit	Non assumpsit, pay't with leave, &c.
4	Bulkeley, Rice	Jackson Johnson	Adam Behee, et al	Osborne	564	Jan.	1877	Replevin	
5	Bulkeley, Rice	Jackson Johnson	Adam Behee, et al	Osborne	66	April	1877	Replevin	
6	Pike, Gates	O. P. Hart, et al	Hugh Connor, et al	Shonk, Opp	1318	May	1877	Ejectment	Not guilty.
7	McL. & J.	Jonas Weiddaw	B. F. Bailey, et al	B.	9	Jan.	1880	Case	Not guilty.
8	H., McG., W.	J. P. Thompson, dec'd	L. V. R. R. Co	Darlings	22	May	1881	Case	Not guilty.
9	G. M. L., Butler.	S. M. Beards, Son & Co	E. J. Mylotte, et al	J. L. L.	269	May	1881	Replevin	Non cepit, property.
10	Magee, Payne	Geo. P. Richards	John W. Thomas, dec'd	Opp, Farnham	98	June	1881	Assumpsit	Non assumpsit.

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NO.	PL'FFS' ATT'YS.	PLAINTIFFS.	DEFENDANTS.	DEF'TS' ATT'YS.	NO.	TERM.	YR.	ACTION.	PLEA.
11	Harding, McG	James S. Slocum	P. & N.Y.C. & R.R.Co	Darlings, Palmer	17	Nov	1881	Issue	Not guilty.
12	Payne	A. B. Rommel	James Hughes	Powell, Gates	165	Nov	1881	Assumpsit	Non assumpsit, pay't with leave.
13	R	A. M. Wasser	H. A. Ames, et ux	Butler	301	Nov	1881	Appeal	Non assumpsit, coverture.
14	Strauss	Ernestina Greiner, et al	L. V. R. R. Co	Darlings	53	Feb	1882	Case	Not guilty.
15	Darte	R. H. Atkinson	P. J. Kinney	J. L	578	May	1882	Case	Not guilty.
16	Bauman, McL	Use of Chas. Ahlborn	A. M. Kreuger	R. & C	42	June	1882	Appeal	Not guilty.
17	Payne	John R. Nicely	Daniel Andreas	K	64	Oct	1882	Tres vi et ar.,q c.f	Not guilty.
18	Brundage	Joseph Rape, et ux	John Smith, et al	Harding, McG	548	Oct	1882	Ejectment	Not guilty.
19	Ryman	A. M. Herrod & Co	Frauenthal Brothers	T	1748	Oct	1882	Debt	Nil debit.
20	McCartney	Wm. R Barnes	D. P. Schupp	Shonk, Payne	807	Oct	1882	Case	Not guilty.
21	J. T. L	George D. Silvius	John Kosseck	Ryman	245	Nov	1882	Assumpsit	Non ass., payment with leave, &c.
22	M'C.,B.,H.,M'G	Morris Simoson, et ux	Waddell & Walter	Darlings	74	Feb	1883	Case	Not guilty.
23	Hakes	Nicholas Rapson	L. V. R. R. Co	Darlings	168	Feb	1883	Case	Not guilty.
24	P.D.& F.,P.,Pow	A. L. C.Winchester,et al	Penn. Coal Co., et al	McC.,D.&A.,Dar	28	March	1883	Ejectment	Not guilty.
25	Harvey	O. F. Harvey, assignee	S. W. Trimmer	Halsey	128	May	1883	Sci. fa. sur mort	Payment with leave, &c.
26	McL., G	I. S. Osterhout, dec'd	Lewis Landmesser	L	282	May	1883	Assumpsit	Non assumpsit, pay't with leave, &c.
27	Payne	John D. Rogers	D. A. Labar	Hakes	35	June	1883	Appeal	Non ass., setoff, pay't w. leave, &c.
28	C	L. Lewith & Brothers	Michael Duffy dec'd	J. T. L	89	June	1883	Sci. fa. sur jugt	Payment.
29	P. D. & F.	Patrick Fadden	Township of Pittston	J. L	108	Oct	1883	Case	Not guilty.
30	Coughlin	Joseph F. Welter	J. W. Edwards	Foster	190	Oct	1883	D. S. B	Payment.

QUARTER SESSIONS ARGUMENT LIST.

MONDAY, JANUARY 5, 1885.

1	In Re Road in Newport Township	McL. & J., Darlings, Hines	Exceptions to report of viewers.
2	In Re Private Road in Kingston Township	Gates, P	Exceptions to report of viewers
3	In Re Road in Huntington Township	Hand, Gates	Exceptions to report of viewers.
4	In Re Road in Salem Township	Gates, Atherton	Exceptions to vacate and relay road.
5	In Re Road in Kingston Township	Gates	Exceptions to report of viewers.
6	In Re Road in Hunlock Township	Brundage, C	Exceptions to report of viewers.
7	In Re Road in Ross Township		Exceptions to report of viewers.
8	In Re Road in Huntington Township		Exceptions to report of reviewers.
9	In Re Commonwealth v. F. C. Pilger	Shoemaker	To set aside verdict.
10	In Re North Election District of Huntington Township	McCartney, J. T. L	Exceptions to change of boundaries.
11	In Re Road in Foster Township		To strike off confirmation.
12	In Re Delaware Street, Wilkes-Barre	Fuller	Exceptions to report of Viewers.
13	In Re Indebtedness of Plains Township		Exceptions to supplemental report of Commissioners.
14	In Re Road in Kingston Township		Exceptions to report of Viewers.
15	In Re Private Road in White Haven		Exceptions to report of Viewers.
16	In Re Commonwealth v. George Hutchins		To quash indictment.
17	In Re Commonwealth v. Robert Holland, et al		For arrest of judgment.
18	In Re Commonwealth v. Daniel Edwards, et al		For new trial.
19	In Re Extension of Ross Street, Wilkes-Barre		Exceptions to report of Viewers.

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COMMON PLEAS ARGUMENT LIST.

TUESDAY, JANUARY 6, 1885.

NO.	PLAINTIFFS' ATTORNEYS.	PLAINTIFFS.	DEFENDANTS.	DEFENDANTS' ATTORNEYS.	RULE.
1	C. B. Jackson, Farnham . .	Seth B. Bowman	Daniel F. Seybert	Ricketts	For new trial.
2	. . . . .	Sumner, Reed, Williams & Co	Paul Sucharski et al	Strauss, P	For new trial.
3	B. & N., F., McL	E. P. Steele & Co. et al . .	Paul Suchorski	Miller, J. L	For new trial.
4	J., Gates	Charles Elliott	W. L. Paine	Shonk, Farnham	For new trial.
5	J. L	Patrick McDade	James Campbell	McLean	For new trial.
6	Ricketts	John H. Wilson	A. E Burr	R	For new trial.
7	Payne	Use of Pottsville Bank . .	Andrew Miller, dec'd . . .	Harding	For new trial.
8	H., McG	Philip Clifford, et al . . .	Lehigh Valley Coal Co . .	Darlings	For new trial.
9	E. A. L	Joseph Najuszwski	Michael Wolungewicz . . .	F	For new trial.
10	J. L	Thomas Gaffey	Patrick McGrath	E. A. L	For new trial.
11	C	Miner Neely	Joseph Neely	P. D. & F., Gates	For new trial.
12	Darlings, B. & W	Use of W. J. Romig . . .	Dryfoos, Grier & Youngman	D. & A	For new trial.
13	D. & A	Pardee & Markle	Thomas John, dec'd . . .	Darlings	For new trial.
14	Farnham	In Re Assignment of . . .	John Stuart	Robinson	Exceptions to Auditor's report.
15	J., E. A. L	Elsy Adams, dec'd	Wm. Houze, et al	Darte	Exceptions to Referee's report.
16	Hahn, Bedford	Hartford Fire Ins. Co . . .	H. Oppenheimer	Brundage, Strauss	Exceptions to decision of court.
17	. . . . .	Assignment of	John Treffeisen	. . . . .	Exceptions to Auditor's report.
18	Hannah	David Hyman	Michael Sullivan, et al . .	Ammerman	Exceptions to Referee's report.
19	C. H. & E. W. S., R. & L., D	H. N. Booz, et al	M. B. & L. Association . .	McL	Exceptions to report of Master.
20	Farnham	In Re Assignment of John	Stuart for ben't of creditors	. . . . .	To open partial account of Assignee, &c.
21	Miller	W. P. Kirkendall	W. H. Williams et al . . .	Osborne	To open judgment.
22	Robinson	C. A. Zeigler, Ad.	Fred. Reufer	B. & N	To open judgment.
23	Robinson	C. A. Zeigler, Ad.	Fred. Reufer	B. & N	To open judgment.
24	Darlings	Use of John M. Ward . . .	Henry Zeigler et al	. . . . .	To open judgment as to all except $30.
25	Connollys	Patrick McCann	Excelsior Building Asso . .	T. F. W	To revoke appointment of sequestrator.
26	Farnham	Henry Lutz, assigned . . .	W. & P. Cordner	S	To strike off judgment.
27	. . . . .	Richard Jones	James Bevan	J. L	To quash writ &c.
28	. . . . .	Use of M. C. Earley . . .	Borough of Pleasant Valley	McGahren	For assignment of $150.
29	R. & L	Thompson & Kersey . . .	Sallie H. Owen et al . . .	Payne, Darlings, L	To strike off judgment, &c.
30	R. & L	Maria Street	K. R. Owen et al	Payne, Darlings, L	To strike off judgment, &c.
31	Lamb, F	E. L. Diefenderfer	Owen Caffrey, dec'd . . .	McG	To strike off appeal.
32	Troutman	Susan Ann Smyth	James Smith	. . . . .	For alimony, &c.
33	M	Hiram Booth	Daniel McAlister	. . . . .	To reverse proceedings.
34	M	Hiram Booth	Joseph Stranix	. . . . .	To reverse proceedings.
35	A. H. McClintock, D . . .	Frank Young, Trustee . .	O. P. Kester et al	Payne	To open judgment.
36	Strauss	Michael Worgo	Fuller Coal Co., Garnishee	D. & A	To enter judgment.

WEDNESDAY, JANUARY 7, 1885.

37	Strauss	George Shuta	Fuller Coal Co., Garnishee	D. & A	To enter judgment.
38	Brundage	T. J. Good	Smith & Sellover	J. T. L	To open judgment.
39	Osborne	William Croop	Mary Croop	J. T. L	For alimony, &c.
40	H	D. J. Evans	James E. Roderick	J. L	To add John Lynch as another defendant.
41	J. L. L	Thomas Lyons	William H. Jones	Mahon	For set-off.

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WEDNESDAY, JANUARY 7, 1885—CONCLUDED.

NO.	PLAINTIFFS' ATTORNEYS.	PLAINTIFFS.	DEFENDANTS.	DEFEND ANTS' ATTORNEYS.	RULE.
42	S	John McAnany	Michael McGough		To strike off appeal.
43	O'Neill	D. L. O'Neill	Peter Davies et al	Evans	To dissolve attachment.
44	O'Neill	D. L. O'Neill	Matthew Leckie et al	Evans	To dissolve attachment.
45	Butler, R	Jacob Matthias	Barnet Searfoss	Brun dage, Darlings	To strike off discontinuance, &c.
46	Magee	Joseph Pouksztis	Frank Ovzehowsky	Shonk	To open judgment.
47	W	William Toothe	E. G. Butler		To vacate order.
48	Hahn	Mary Laux	George Schauble		For attachment.
49	J. L	Levi Lear	L. & W.-B. Coal Co., et al	McClintock, Palmer	To discontinue suit.
50	McCartney	Roswell Luther	R. C. Mitchell		To strike off appeal.
51	Troutman	Jane Job	Holmes & Passage	Sturges	To strike off non suit.
52	Osborne	W. F. Peck, et ux	Josiah Ruggles, et al	Harding, Hahn	To strike off non pros.
53	J. L. L	I. K. Krickbaum	E. B. & E. A. Beischline	McCartney	To stay execution.
54	Mosier	S. R. Halleck	N. W. Eshelman		To strike off appeal.
55	J. T. L	J. J. McHenry	M. V. B. York	E	To stay execution, &c.
56	Troutman	Simon Miller	Condy McCool, et al	J. T. L	To dissolve attachment.
57	Willard, Ammerman	Mer. & Mech. Bank	M. D. May	C. & D	For re-argument.
58	Payne, Sturges	Albert Gabriel	Charles Parrish, et al	Hines	To open judgment.
59	Chase	Jeremiah Lines	Wm. Griffith	J	To quash appeal
60	O'Neill	James Keys	Waddle & Co	B. & W	To take off non suit.
61	G	Fred Wattles	Fuller Coal Co., limited	D. & A	To enter judg't for want of sufficient affi. of def.
62	E. G. B	M. S. Harding	Alfred Curran, et al	J. T. L	To strike off judgment.
63	Hahn	Friederich Herzog	C. W. Boone	Darte	To strike off award.
64	Mosier	John Larkin, assigned	Patrick Muckler	K	To strike off judgment.
65	J. T. L	W. J. Renniman	Delilah Renniman	Hannah	For order.
66	C	Rudolph Lambert	E. G. O'Malley		To reinstate appeal.
67	W. Harding	S. Burkhalter & Co	Plymouth Coal Co	Shonk	To quash foreign attachment.
68	Hahn	Frederick Raisch	G. A. Lohmann, et al	R	To open judgment.
69	Fuller	Com of Penn'a, ex rel	George R. Wright, et al		For writ of quo warranto.

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ORPHANS' COURT ARGUMENT LIST.

SATURDAY, DECEMBER 27, 1884.

1	In Re Estate of Jacob Billheimer, deceased	Darlings, Brundage	Exceptions to final account of Executors.
2	In Re Estate of J. W. Rinker, deceased		Exceptions to acconnt of Administratrix.
3	In Re Estate of Monroe Bemis, deceased	D. & A., D. W. C., J. A. D	Exceptions to account of Executor.
4	In Re Estate of William Witcraft, deceased	Halsey	Exceptions to report of Audit.
5	In Re Estate of Ellen Taylor, deceased	Fuller	Exceptions to final account of Executor.
6	In Re Estate of Alexander Gray, deceased	Butler, Ricketts	Exceptions to re-stated report of Audit.
7	In Re Estate of William Masterson, deceased	D. W. C	For discharge of Administrator.

COMMON PLEAS CERTIORARI LIST.

MONDAY, JANUARY 5, 1885.

NO.	PLAINTIFFS' ATTORNEYS.	PLAINTIFFS.	DEFENDANTS.	DEFENDANTS' ATTORNEYS.	
1	B. & N	James McGinty et al	J. J. Smythe	L.	Certiorari.
2	Hines, Hahn	Thomas H. Bond	John H. Hetler	J.	Certiorari.
3	J. L. L	John Keeley	Peter Wentzel		Certiorari.
4	J.	Benjamin Armstrong	George Sager		Certiorari.
5	M.	Hiram Booth	Joseph Stranix	J. T. L	Certiorari.
6	J. L. L	Robert Cronan	John H. Harris		Certiorari.
7	J. T. L	Hannah Brooks	Hugh Reel	N	Certiorari.
8	M	Leon Mikulewicz	Ignatius Valandavage		Certiorari.
9	C.	Wiseman & Blatner	B. E. Brundage	M	Certiorari.
10	N	Baltzer Helfrich et al	Samuel Keithline		Certiorari.
11	J. T. L	William Amos	N. W. Abbey	M	Certiorari.
12	Mosier	Aaron Brown	Far. & M. M. F. Ins. Co		Certiorari.
13	B	John Henegham	Charles Holden	J. T. L	Certiorari.
14	B	John Holcroft	Charles Holden	J. T. L	Certiorari.
15	J	Hugh Thomas, et al	Robert Thomas	H	Certiorari.
16	L	Harry McGroarty	William Honeywell		Certiorari.
17	McL	Michael Quinn	John Gilroy		Certiorari.
18	Gates	S. B. Johnson	Tewksbury & Fenner	Payne	Certiorari.
19	K	Samuel Kay	William Jones		Certiorari.
20	Troutman	George Schilki	Lazarus Moyer		Certiorari.
21	Shonk	George Davis	Henry Williams		Certiorari.
22		S. W. Boyd	City of Wilkes-Barre		Certiorari.
23	N	Frank Baab	Susan Brader		Certiorari.

ESTATE OF CATHARINE, TREFFEISEN, late of Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHRISTIAN TREFFEISEN

GUSTAV HAHN, Pittston, Pa.
Attorney. 48-53

ESTATE OF THOMAS FARRALL, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

H. H. DERR,

H. A. FULLER, Wilkes-Barre, Pa
Attorney. 48-53

ESTATE OF RODMAN C. BROWNING, LATE of Kingston borough, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ELIZABETH S. BROWNING,

H. W. DUNNING, Kingston, Pa.
46-51 Attorney.

ESTATE OF SARAH MYERS, LATE OF Newport township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARRIET FAIRCHILD,

B. M. ESPY, Alden, Pa.
Attorney. 47-52

ESTATE OF SAMUEL WHITEBRED, LATE of Hollenback township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN P. WHITEBRED,

W. S. McLEAN, Hobbie, Pa.
Attorney. 47-52

ESTATE OF JOHN POLSUE, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARRIET A. POLSUE,

D. M. JONES, Wilkes-Barre, Pa.
Attorney. 48-53

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ORPHANS' COURT SALE.

Estate of Rodman C. Browning, deceased. By virtue of an order of the Orphans' Court of Luzerne county), there will be exposed to public sale, at the Arbitration Room, in the Court House, in the city of Wilkes-Barre, Pa., on Saturday, December 27, A. D. 1884, at 10 o'clock A. M., the following real estate:

1. All that lot of land in the township of Jenkins, beginning at a corner in line of lands of W. D. Hale, thence 5 perches along said Hale's land to corner in line of said Hale's land and corner of lot No. 18, thence 8 perches to corner in centre of a street called Main street, thence along said Main street 5 perches to a corner, and thence 8 perches to the beginning; containing 40 perches of land, strict measure, and being lot No. 17 on a plot and survey of the lands late of Isaiah Hale

2. Also, all that lot of land in Jenkins township, beginning at a corner in centre of said Main street and corner of lot No. 27 on said plot and survey now occupied by Ira ————, thence 8 perches to a corner in centre of an alley No'd 4 on said plot and survey, thence along said alley 5 perches to a corner, thence 8 perches to centre of said Main street, and thence along said Main street 5 perches to the beginning; containing 40 perches of land, strict measure, and having thereon 1 frame dwelling house, and being lot No. 26 on said plot and survey.

3. Also, all that lot of land in Jenkins township, beginning at a corner in line of lands of the Pennsylvania Coal Company and corner of lot No. 22 on said plot and survey, thence 11 6-10 perches to corner in centre of Main street aforesaid, thence along said street 4 perches to corner, thence about 12 perches to corner in said Pennsylvania Coal Company's land, and thence along same about 4½ rods to the place of beginning; containing about 49 perches of land, more or less. and being part of lot No. 23 on said plot and survey.

4 Also, the undivided two-thirds interest in that lot of land in Jenkins township being No. 18 on said plot and survey, beginning at a corner in line of W. D. Hale's land and corner of lot No. 17 hereinbefore described, thence along said Hale's line 5 perches to a corner, thence 8 perches to a corner in centre of said Main street, thence along same 5 perches to corner of lot No. 17 aforesaid, and thence by it 8 perches to the beginning; containing 40 perches of land, strict measure.

5. Also, all the undivided one-third interest in that lot of land in Jenkins township, being Nos. 33 and 34 on said plot and survey, beginning at a corner in line of lands of the Pennsylvania Coal Company, and in centre of alley No. 2 on said plot and survey, thence alond said alley 4 6-10 perches to a corner, thence along alley No. 4, 24 5-10 perches to a corner, thence along alley No. 3, 11 3-10 perches to corner in said Coal Company's line, and thence along same 25 7-10 perches to the beginning; excepting and reserving all the coal and other minerals and privilege to erect npon lot No. 34 suitable machinery for sinking a shaft and elevating the coal aforesald.

TERMS OF SALE.—One-third down, one-third of balance on confirmation of sale and delivery of deed, and balance, with interest from confirmation, in six months from said confirmation of sale. Deferred payments to be secured by bond and mortgage on the premises.

ELIZABETH S. BROWNING,
HENRY W. DUNNING, Administratrix
48-50 Attorney.

ORPHANS' COURT SALE.

Estate of Thomas C. Harkness, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, at the Arbitration Room, in the Court House, Wilkes-Barre, Pa., on Saturday, the 27th day of December, A. D. 1884, at 10 o'clock A. M., the following valuable real estate, to wit:

1. All that lot of land on the westerly side of Franklin street, in the city of Wilkes-Barre, beginning at a corner on said Franklin street by lands of the estate of Frederick McAlpine, deceased, thence by the same 225 feet to a corner of lot of William McDermott, thence by the same and lot of George Farris 50 feet to a corner by lands now or late of E. H. Chase, thence by the same 225 feet to a corner on said Franklin street, thence along said street 50 feet to the place of beginning; containing 11,250 square feet of land more or less; improved, with a large 2-story brick dwelling house with mansard roof, and all modern improvements.

2. The surface of all that lot of land in the city of Wilkes-Barre, beginning at a corner of Andover street and Arch street in said city, thence along said Andover street about 880 feet to Grove street, thence along said Grove street about 300 feet to Spring street, thence along said Spring street 608 6-10 feet to Arch street, thence along said Arch street about 403 feet to the place of beginning, being lots Nos. 20 to 35, both included, and lots Nos. 52 to 64, both included, in the plan of lots known as the Lockhart lots.

3. The surface of all that lot of land in the city of Wilkes-Barre, beginning at a corner of Main street and Andover street in said city, thence along said Andover street about 208 feet to a corner on a 24 foot alley, thence along said alley about 155 feet to a corner on lot No. 90 in the plot hereinafter referred to, thence along said lot No. 90 about 200 feet to a corner on said Main street, thence along said Main street about 200 feet to the place of beginning, being lots Nos. 88 and 89 in the plan of lots known as the Lockhart lots. Lot No. 88 is improved with a frame dwelling house.

TERMS OF SALE.—On piece No. 1, one-fourth down on day of sale, one-fourth on confirmation of sale and delivery of deed, and the balance, with interest, from confirmation as follows: one-half of balance in six months, and remainder in one year from confirmation. As to pieces Nos. 2 and 3, $25 on each lot down, $25 on confirmation of sale and delivery of deed, and balance, with interest, from confirmation as follows: one-half of balance in one year, and remainder in two years from confirmation. Pieces Nos. 2 and 3 will be sold either in single lots or in blocks. Deferred payments in all cases to be secured by bond and mortgage on the premises.

ISAAC LIVINGSTON,
E. S. OSBORNE, Administrator.
R. D. EVANS,
Attorneys. 48-50

ORPHANS' COURT SALE.

Estate of Anna Elizabeth Meikrantz, deceased. By virtue of an order of the Orphan's Court of Luzerne county, there will be exposed to public sale, on the premises in Hazleton borough, on Saturday, December 20, A. D. 1884, at 1 o'clock P. M., the following real estate:

All that lot of land on the west side of Cedar street, in the borough of Hazleton, being the lots marked Nos. 4 and 5 of square No. 100 in the plan of said borough, beginning at a point on the west side of Cedar street, 90 feet north of Tamarack street, thence along Cedar street 60 feet to a street, thence along said street 190 feet to a certain 20-feet wide alley, thence along said alley 60 feet to lot No. 3, thence 190 feet to the place of beginning; containing 60 feet on Cedar street and extenning westwardly of that width in length or depth 190 feet to the alley aforesaid; all coal and other minerals excepted; all improved with a large double 2-story frame dwelling house with a basement, and a barn on the rear of the lot, fruit and ornamental trees, outbuildings, etc.

TERMS OF SALE.—$200 down on day of sale, balance on confirmation of sale and delivery of deed.

T. R. MARTIN,
48-50 Administrator.

A PRIZE. Send six cents for postage, and receive free, a costly box of goods which will help you to more money right away than anything else in this world. All, of either sex, succeed from first hour. The broad road to fortune opens before the workers, absolutely sure. At once address. TRUE & Co., Augusta, Maine.

WIN more money than at anything else by taking an agency for the best selling book out. Beginners succeed grandly. None fail. Terms free. HALLETT BOOK CO., Portland, Maine.

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ADMINISTRATOR'S SALE.

Estate of P. V. Wambold, late of Kingston borough, Luzerne county, deceased By virtue of an order of the Orphans' Court of Luzerne county to me directed, I will expose to public sale on the premises, on Saturday, January 10, 1885, at 2 o'clock P. M.. the following real estate, being two lots of land in Kingston borough:

The first thereof beginning on the main road leading to Wyoming on east side at corner of land sold to William Church, thence along said street 60 feet to line of Kingston farm, thence by the same 181 5-10 feet to a corner, thence along same 60 feet to a corner on said Church lot, thence by the same 181 5-10 feet to beginning; containing about 10,890 square feet of land; all improved with a 2-story wood store and dwelling combined, 1 shop, and 1 3-story wood workshop and barn attached thereon.

The second thereof beginning at a corner on main road leading to Wyoming on east side, at corner of lot sold R. H. Tubbs, thence by said main road 60 feet to land of Mrs. John D. Hoyt, thence by the same 181½ feet to a corner on the Rutter farm, thence by the same 60 feet to a corner on said lot of R. H. Tubbs, now Mrs. W. G. Colley, thence by the same 181 feet to beginning; containing 10,890 square feet of land; all improved with 3 separate wood shops, houses or buildings thereon.

TERMS OF SALE—One-third down, 25 per cent. of balance on confirmation of sale and delivery of deed, and the balance, with interest from confirmation, one year from day of sale, or sooner if purchaser desires. Deferred payments to be secured by bond and mortgage on the premises.

C. A. WAMBOLD,
Administratrix.

H. B. PAYNE,
Attorney.

50-52

NOTICE IS HEREBY GIVEN THAT AN application will be made to the Governor of Pennsylvania, on or before the 27th day of December A. D. 1884, by Calvin Parsons, R. J. Flick, H. Baker Hillman, A. A. Stirling, and A. J. Davis under the Act of Assembly entitled "An Act to Provide for the Incorporation and Regulation of Certain Corporations," approved April 29th, 1874, and the supplements thereto, for the re-charter of the Warrior Run Mining Company, to be called the Warrior Run Mining Company, the character and object of which is to purchase, lease, hold, sell, and convey coal lands, to mine and quarry coal therefrom, and to prepare coal for market, to buy, sell, and ship coal, and to transact all business connected therewith, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of said Act of Assembly, and supplements thereto.

E. P. & J. V. DARLING,
Solicitors.

49-51

NOTICE IS HEREBY GIVEN THAT AN application will be made to the Governor of the state of Pennsylvania, under the Corporation Amendment Act of one thousand eight hundred and eighty-three, for the amendment of the charter of The Plain-Dealer Printing Company, the character and object of said amendment being to change the name of the said corporation to The Economic Printing Company.

JOHN S. HARDING,
Solicitor.

50-52

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 164, October term, 1884. Libel in divorce a vinculo matrimonii. Emma J. Beebe, by her next friend, Mary W. Ensign, *v.* Justin W. Beebe. The alias subpœna in the above case having been returned, "That the said Justin W. Beebe cannot be found in Luzerne county," you, the said Justin W. Beebe, respondent, are required to appear on Monday, January 12, 1885, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.

W. J. HUGHES,
Attorney.

48-51

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 140, October term, 1884. Libel in divorce a vinculo matrimonii. E. W. Rutter *v.* Emma J. Rutter. The alias subpœna in the above case having been returned, "that the said Emma J. Rutter cannot be found in Luzerne county." you, the said Emma J. Rutter, respondent, are required to appear on Monday, January 12, A. D. 1885, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.

J. D. HAYES,
Attorney.

48-52

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 170¾, October term, 1884. Libel in divorce a vinculo matrimonii. Mary Meyer, by her next friend, Isaac Livingston, *v.* Henry Meyer. The alias subpœna in the above case having been duly returned, "That the said Henry Meyer cannot be found in Luzerne county." You, the said Henry Meyer, respondent, are required to appear on Monday, January 12, 1885, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.

E. S. OSBORNE,
E. P. & J. V. DARLING,
Attorneys.

47-50

ORPHANS' COURT SALE.

Estate of Owen Finnerty, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, on Saturday, December 27, 1884, at 4 o'clock P. M., the following real estate:

The surface of all that lot of land in Plymouth bounded on the east by Harris street, on the south by land of John J. Shonk, on the west and north by land of William H. Cool and others; being 50 feet in front on Harris street and 150 feet deep, and containing about 7,500 square feet of surface, more or less: all improved with 1 small 2-storied frame dwelling house, a wash house, and other outbuildings thereon.

TERMS OF SALE.—$200 down, 25 per cent. of balance on confirmation of sale and delivery of deed, and balance, with interest from confirmation of sale, in six months from confirmation of sale, deferred payments to be secured by bond and mortgage on the premises.

OWEN FINNERTY,
Administrator.

GEO. W. SHONK,
Attorney.

49-51

AUDITOR'S NOTICE.

In re partition of the real estate of Joseph P. Schooley, deceased. The undersigned, an auditor appointed by the Orphans' Court of Luzerne county, to ascertain whether there are any liens or other incumbrances on the real estate taken in partition in the said estate affecting the interest of the parties and to marshall the same; also to ascertain and apportion the costs and expenses of partition, and also to report amount of recognizance to be given by the accepting heirs, hereby gives notice that he will attend to the duties of his appointment at his office, No. 18 South Franklin street, Wilkes-Barre, Pa., on Wednesday, the 17th day of December, A. D. 1884, at 10 o'clock A. M., when and where all parties interested are requested to present their claims before the undersigned. or forever be debarred from coming in upon said fund.

HENRY W. DUNNING,
Auditor.

47-50

IN THE ORPHANS' COURT OF LUZERNE county. In Re estate of William Masterson, deceased. Now, November 29, 1884, on motion of D. W. Connolly and Davis, attorneys for J. J. Cummiskey, administrator of said deceased, court grant rule on Mary Masterson, widow, and Edward Masterson, heir of William Masterson, deceased, both residents of Shenandoah, Schuylkill county, Pennsylvania, to show cause why said administrator shall not be discharged from further acting as administrator of said estate. Returnable December 27, 1884.

BY THE COURT.

50-52

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AUDITOR'S NOTICE.

In re partition of the real estate of John R. Brodhead, deceased. The undersigned, an auditor appointed by the Orphans' Court of Luzerne county to ascertain whether there were any liens or other incumbrances on the real estate taken in partition in said estate affecting the interests of the parties, and to marshal the same; also to ascertain and apportion the expenses of partition, and also to report amount of recognizance to be given by the accepting heirs, hereby gives notice that he will attend to the duties of his appointment at his office, No. 19 Harvey Buildings, on Franklin street, Wilkes-Barre, Pa., on Monday, the 22d day of December, A. D. 1884, at 10 o'clock A. M., when and where all parties interested are requested to present their claims before the undersigned, or forever be debarred from coming in upon said fund.

C. F. BOHAN,
48-51 Auditor.

AUDITOR'S NOTICE.

In the Court of Common Pleas of Luzerne county. No. 120 April Term, 1859. In Re D. S. Kidder. The undersigned, an auditor appointed by the Court of Common Pleas of Luzerne county to pass upon the exceptions filed to the account of Joseph Brown, committee in above stated case, and make distribution of the moneys found to be in the hands of said committee to and among the parties entitled thereto, and make report thereof, hereby gives notice that he will attend to the duties of his appointment at his office, No. 5 Equity Place, on Franklin street in the city of Wilkes-Barre, on Friday, January 9, 1885, at 10 o'clock A. M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

EDWIN SHORTZ,
50-1 Auditor.

IN THE COURT OF QUARTER SESSIONS of Luzerne county. No. 255 September term, 1884. In Re election district in the borough of Hazleton. Notice is hereby given that the report of the Commissioners in the above stated case has been filed with the Clerk of the Court of Quarter Sessions, and was confirmed nisi by the court on the 9th day of December, 1884, and that said report will be confirmed absolutely by the court unless exceptions thereto be filed not later than the third day of the next term of said court.

L. K. STRENG,
C. W. KLINE, Clerk Q. S.
Attorney. 50-52

ESTATE OF JOSEPH B. ROSS, LATF OF Franklin township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES FRANTZ,
L. W. DE WITT, Orange, Pa.
Attorney. 50-3

ESTATE OF ABRAM DE WITT, LATE OF Franklin township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

V. L. LEWIS.
L. W. DE WITT, Exeter Pa.
Attorney. 50-3

ESTATE OF OWEN DONOHUE, LATE OF Foster township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SAMUEL B. PRICE,
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ESTATE OF BARBARA HEIBEL, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

PHILIP G. KILIAN,
EDWARD S. MILLER,

GUSTAV HAHN,
Attorney. 50-3

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ESTATE OF JOHN JACOB DuBOIS, LATE of White Haven, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE A. DuBOIS,
EDWIN SHORTZ, White Haven, Pa.
Attorney. 50-3

ESTATE OF CATHARINE McGUIRE, LATE of Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

JOHN GORMAN,
49-2 Hazleton, Pa.

ESTATE OF PETER HOLMAN, LATE OF Hazle township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES HOLMAN,
C. W. KLINE, Hazleton, Pa.
Attorney. 47-52

ESTATE OF JOHN JONES, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SARAH RUDDICK.
45-50 Executrix.

ESTATE OF JAMES COWANS, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ROBERT COWANS,
C. W. KLINE, Hazleton, Pa.
Attorney. 48-53

ESTATE OF NICHOLAS SCHILLINGER, late of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ALEXANDER MITCHELL,
G. L. HALSEY, Wilkes-Barre, Pa.
Attorney. 50-3

ESTATE OF PETER BEISEL, LATE OF Butler township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BARBARA BEISEL,
47-52 Drums, Pa.

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ESTATE OF ELIJA KRICKBAUM, LATE OF Huntington township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. B. KRICKBAUM,
47-52 Town Hill, Pa.

ESTATE OF FRANK L. SNYDER, LATE OF Dallas, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CORA L. SNYDER,
48-53 Dallas, Pa.

ESTATE OF ROBINSON BOYD, LATE OF Luzerne, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES M. BOYD,
45-50 Luzerne, Pa.

ESTATE OF MARY QUINN, LATE OF JEN kins township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MICHAEL QUINN,
45-50 Port Blanchard.

ESTATE OF PENELOPE E. B. CRAWFORD, late of Cincinnati, Ohio, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

OSCAR J. HARVEY,
46-51 Wilkes-Barre, Pa.

ESTATE OF ADAM BACHMAN, LATE OF Hazleton, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHRISTIAN BACHMAN,
49-2 Hazleton, Pa.

ESTATE OF ELLEN D. COOLEY, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

E. P. DARLING,
49-2 Wilkes-Barre, Pa.

ESTATE OF DAVID SCOTT KIDDER, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES H. KIDDER,
46-51 Wilkes-Barre, Pa

ESTATE OF HENRY KANE, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY KANE,
46-51 Wilkes-Barre, Pa.

ESTATE OF PETER HUSHBUT, LATE OF Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HENRY HUSHBUT,
45-50 Pittston, Pa.

WILLIAM S. McLEAN,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

W. S. PARSONS,

ALDERMAN,

WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, DECEMBER 19, 1884. NO. 51.

Court of Quarter Sessions of Luzerne County.

IN RE ROSS POOR DISTRICT.

Pauper—Order of removal—Costs—Evidence.

1. Upon the confirmation of an order of removal the appellant is chargeable with the expenses of maintaining the pauper by the appellee incurred prior to the order of removal, there being no laches or unnecessary delay in obtaining the order.
2. The appellant is also liable for such costs incurred after obtaining the order, where notice has been given to the appellant of the order and the pauper is too ill to be removed.
3. The confirmation of an order of removal is a conclusive adjudication of all matters essential to the adjudication.
4. A justice is incompetent, on the ground of interest, to join in an order of removal from his own township to another, but not to issue an order of relief.
5. The court will take judicial notice of the official character of justices of the peace.
6. Expenditures by *de facto* overseers may be recovered on confirmation of the order of removal.
7. Election of overseers in boroughs considered. Act June 27, 1881, P. L. 120.

Exceptions to auditor's report.

The opinion of the court was delivered November 24, 1884, by

RICE, P. J.—The questions involved in these exceptions grow out of an appeal by the poor district of Ross township from an order of removal issued on the application of the poor district of Shickshinny borough, in the case of Garner Hendershot, a pauper. A better understanding of these questions will be had by briefly recapitulating the proceedings. May 8, 1882, order of relief issued by two justices of the peace of the borough, directed to the overseers of the poor of the same. December 6, 1882, order of removal to Ross township. December 18, 1882, order of removal served on the overseers of Ross township.

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January 22, 1883, petition for appeal, reciting order of removal, and same day appeal allowed and directed to be filed. July 31, 1883, Garner Hendershot, the pauper, died, not having been actually removed to Ross township, owing to the fact, as found by the auditor, that he was too ill to be removed under the order. September 17, 1883, order by Judge Woodward, after hearing, confirming the order of removal, and dismissing the appeal. The decree concludes as follows: "And it is ordered and decreed that Ross township poor district shall pay to the overseers of the poor of Shickshinny borough their reasonable costs and expenses in the case, the appellees to file their bill of costs and expenses with the clerk of the courts, and a certified copy of this decree and the bill of costs and expenses to be served on the overseers of the poor of Ross township, said bill of costs and expenses to be subject to exceptions on the part of the appellant and to the approval of court. September 21, 1883, copy of bill of costs and expenses served on the overseers of Ross. November 23, 1883, exceptions filed. February 11, 1884, auditor appointed to report on bill of costs, etc., and exceptions. August 16, 1884, report of auditor filed. October 1, 1884, exceptions thereto filed:

First. The portions of the act of assembly which are applicable here are substantially as follows: "For the more effectual preventing of vexatious removals and frivolous appeals, the court of Quarter Sessions, upon every appeal in case of settlement * * * * shall * * * * order to the party in whose behalf such appeal shall be determined * * * * such costs and charges as the said court shall consider reasonable and just." Act June 13, 1836, sec. 20, P. L. 545. The first question which suggests itself is, whether, upon the confirmation of an order of removal, the appellant is chargeable with the necessary expenditures of the appellee for the relief and maintenance of the pauper prior to the order of removal, there being no laches or unnecessary delay by the appellee in obtaining such order? The auditor answeres this question in the affirmative. His conclusion is amply sustained by the reasons given in his report, and by authority. See Tioga *v.* Lawrence, 2 W. 43; Milton *v.* Williamsport, 9 Barr. 46–48; Walker *v.* West Buffalo, 1 J. 95.

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Second. Is the appellant liable to the appellee for similar expenditures, and for the cost of the burial of the pauper, after the order of removal? In this case the order was almost immediately served on the poor directors of Ross, and thus they had notice. So far as appears they did nothing and made no offer to do anything for the paupers' relief, but instead took an appeal. The auditor has reported, upon sufficient and satisfactory evidence, that he was too ill to be removed. What then were the poor directors of Shickshinny to do? They could not, under the law, refuse to maintain him, nor, for the reason given, could they actually remove him. Clearly they were bound to continue their relief until he could be removed. See Kelly *v.* Union, 5 W. & S. 535. And, upon the determination of the appeal in their favor, were entitled to demand reimbursement from the appealing district. Charges for the maintenance and burial of the pauper, under such circumstances, are undoubtedly "reasonable and just" in their character, and thus the case is brought directly within the letter as well as the spirit of the law.

Third. Is it competent, in this supplementary proceeding, to question the validity of the order of removal? Clearly not, unless we deny the familiar principle that an adjudication by a court of competent jurisdiction between the same parties is an end of controversy as to the question adjudicated, and as to all matters essential to the adjudication. The decree of September 17th, 1883, until reversed or set aside, is a conclusive adjudication between these parties: 1st, that the pauper was, at the time of the order of removal, a charge on the borough of Shickshinny; 2d, that Ross township was his last legal settlement; 3d, that the order was issued upon the application of the proper officers; 4th, that the justices who signed the order had jurisdiction of the application, and performed every duty essential to the validity of their action.

Fourth. The effect of the order of relief as an instrument of evidence was not especially to prove the fact that Garner Hendershot had become legally chargeable as a pauper upon Shickshinny borough—for this fact was established by the adjudication referred to—but rather to fix the time when he became so chargeable. It is in due form, purports to be signed by two justices of

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the peace of the borough, and is the order under which the overseers acted in furnishing relief. There is reason for holding that a justice of the peace is incompetent, on the ground of interest, to join in an order of removal of a pauper from his own township to another. McVeytown *v.* Union, 5 W. & S. 434. But no such reason applies to an order of relief, and there is nothing in the language of the act to prevent a justice of the borough or township to be effected from issuing such order. There was, however, no express proof of the hand-writing of the justices, or of their official character. The latter fact seems, under the authorities, to be a matter of which the court will take judicial notice. Hibbs *v.* Blair, 2 H. 413; Fox *v.* Com., 32 Sm. 511; and see also Kilpatrick *v.* Com., 7 C. 210-11. Under the circumstances we are not prepared to say that any material error was committed by the auditor in admitting the order for the purpose stated, without express proof of the the handwriting of the justices, he having personal knowledge of the same, and being satisfied from inspection of its genuineness. Certainly, without even an intimation that this is a matter about which there is any dispute, no good purpose would be served by sending the report back on this account.

Fifth. The auditor reports that G. W. Miller and Samuel Carwood were the *de facto* overseers of the poor of the borough for the year 1882, and that therefore the money expended and debts contracted by them in this behalf, so far as the expenditures are reasonable, are legitimate charges against the appellant. This finding of fact is excepted to, but we think it is fully sustained by the evidence. They had been the two duly elected overseers of the borough for the year 1881. At the spring election of 1882, it would seem from the certificates of election, that the people voted for two overseers in each ward, under the Act of June 27, 1881, P. L. 120, and that in the second ward Samuel Carwood received the highest number of votes. G. W. Miller, the other overseer was not elected. None of the elected overseers qualified by giving bond, except Samuel Bigley, of the first ward, and he did not give bond until April 4, 1882. It does not appear that he took the oath of office, or that either he or any other of the elected overseers, with the exception of Samuel Carwood, ever undertook to act as such. Under these circumstances,

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whatever may be said as to the absolute legal right of Carwood and Miller to hold over under the provisions of sec. 2, act March 16, 1860, P. L. 174, it is manifest that they were not mere intruders. It is evident that they assumed to hold over and perform the duties of the offices because of the failure of the elected overseers to qualify as required by law. Their right so to do seems not to have been questioned. They were recognized as the overseers by the justices who issued the order of relief, by the justices who issued the order of removal, and indeed by the appellee in their notice of appeal. I am clearly of opinion that they were the overseers *de facto*, and that the money legitimately expended and bills contracted by them under the order of relief were legal charges upon the borough of Shickshinny, and hence the latter is entitled to reimbursement for the same from the township of Ross.

Sixth, With regard to the matter complained of in the fifth exception, the auditor pertinently says: "No technicality of pleading is involved, nor amendment necessary. The appellant has had full opportunity and light to attack the bill on its merits."

We have now considered all the exceptions to the report which raise the questions argued before us, and find no error in the matters complained of.

Now, November 24, 1884, the exceptions are overruled, the report of the auditor is confirmed, and the bill of costs and charges as modified and restated by him, is approved. And it is further ordered that the amount of the same, together with the costs which have accrued on the exceptions to the appellee's bill, be paid by the appellant to the appellee in accordance with the decree of the court of September 17, 1883.

Supreme Court of Pennsylvania.

IN RE SCRANTON POOR DISTRICT.

Poor law—Settlement—Husband and wife—Taxes and taxation.

1. Where tax books are produced showing assessesments upon a certain party which are marked "paid," this is *prima facie* evidence of payment in a question as to the legal settlement of the party assessed.

2. A husband may gain a new settlement by residence and paying taxes in a new district, notwith-

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standing the fact that during such time his wife receives support as a pauper in the town of his old settlement. In such case it is proper to order the removal of the wife from said old settlement to the new one gained by the husband.

For opinion of the court below see 13 Luz. Leg. Reg. 325, 2 Kulp, 457.

Error to the Quarter Sessions of Montour county.

May 19, 1884. PER CURIAM. For reasons given in the opinion of the learned judge who tried this case in the court below, we affirm this case.

Judgment affirmed.

MONEY TO BE MADE.

It is said that dull times are not known by the agents for the great publishing house of George Stinson & Co., of Portland, Maine. The reason of this exceptional success is found in the fact that they always give the public that which is keenly appreciated and at prices that all can afford. At present, we understand, their agents are doing wonderfully well on several new lines They need many more agents in all parts of the country. Those who need profitable work should apply at once. Women do as well as men. Experience is not necessary, for Messrs. Stinson & Co. undertake to show all who are willing to work, not hard but earnestly, the path to large success. It should be remembered that an agent can do a handsome business without being away from home over night. Another advantage—it costs nothing to give the business a trial, and an agent can devote all his time, or only his spare moments, to it. Stinson & Co. guarantee grand success to all who engage and follow simple and plain directions that they give. We have not space to explain all here, but full particulars will be sent *free* to those who address the firm; their full address is given above.

E. B. Yordy has a few more Court Rules left. They contain the rules of the Common Pleas, Orphans' Court, Quarter Sessions, Supreme Court, and Equity.

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SHERIFF'S SALES.

Abstract of property to be sold by J. S. Oberrender, Sheriff of Luzerne county, on Saturday, January 10th, A. D. 1885, at 10 o clock A. M., at the Arbitration room, in the Court House, Wilkes-Barre, who will proceed with the different properties in the order in which they are numbered, to wit:

1

Suit of use of First National Bank of Pittston v. Alva Tompkins. Dickson & Atherton, Att'ys.

1. All that lot of land in the borough of Pittston bounded southeasterly by the main traveled road leading through Pittston, thence along lands of J. E Patterson and others in a northerly direction to a stone, thence along said Patterson and others 151 feet to a stone corner, thence about 114 feet to the main road aforesaid at the place of beginning; all improved with a 2-story building about 90x35 feet with lean-to and 1-story engine house and boiler house, also 1 2-story dwelling with addition and 1 1-story dwelling.

2. All the following lot of land in the borough of Pittston, beginning at a corner in the westerly side of Main street at a corner of lands now or late of the heirs of Roger Searle (now in the possession of the Elmira Coal Company), thence along said Searle's land in a northwesterly direction 190 feet or thereabouts to the bank of the North Branch Pennsylvania Canal, thence along said canal in a northerly direction 250 feet to corner of Thomas L. Hughes, thence along said lot in an easterly direction 144 feet to Main street, and thence in a southerly direction along said Main street to the place of beginning; containing 1 acre more or less; All improved with a 1½-story building about 48x54 feet with lean-to, gas boiler and engine house, bake oven and piling sheds.

2

Suit of Conrad Croph v. Henry Grover.
Payne, Att'y.

1. All that lot of land in the township of Hollenback beginning at a stone on the public road in line of land of late John Mowrey, thence by said road 4 4-10 perches to a stone in line of land late of Jacob Hippensteel, thence by the same 17 9-10 perches to a stone in line of land late of Barnet Whitebred, thence by the same 4 4-10 perches to the said line of said John Mowrey, thence by the same 18 2-10 perches to the place of beginning; containing one-half acre of land, strict measure; all improved, having erected thereon 1 2-story dwelling house, 1 2-story storehouse with hall in upper story, warerooms, etc, one stable, lot of fruit trees and other outbuildings

2. All that lot of land in the town of Hobbie and township of Hollenback beginning at a stone in the centre of the road leading from said town to Harter's Mill, 25 feet from the northwestern corner and 31 feet from the southwestern corner of the dwelling house of Henry Grover, thence by land of Jacob Hippensteel 10 perches and 1 link, thence by same 4 perches to a stone, thence by same 10 perches and 1 link to a stone in said road, thence on said road 4 perches to the place of beginning; containing one-fourth of an acre of ground, strict measure; all improved, having erected thereon 1 2-story house with cellar basement, 1 stable, 1 wagon shed, lot of fruit trees, and other outbuildings.

3. All that tract of land in Hollenback township beginning at a stone corner, thence along land late of Frederick Shortz 31 perches to stones, thence by the same 39 6-10 perches to stones, thence by land late of Isaiah Stiles 31 6-10 perches to a stone corner, thence by lands of said Isaiah Stiles 97 4-10 perches to a stone corner, thence along lands of Isaiah Stiles 32 8-10 perches to a stone corner, thence by land of said Frederick Shortz 26 6-10 perches to a stone, thence by the same 16 8-10 perches to a stone corner the place of beginning; containing 25 acres and 7 perches, strict measure; all improved, having erected thereon 1 log house, 1 log barn, 1 stable, 2 apple orchards and other fruit trees.

3

Suit of Charles Lehman, assigned to R. D. Lacoe, v. Alva Tompkins. Richards, Att'y

All the following lot of land in the borough of West Pittston, beginning at a corner in the southerly line of Montgomery street, and at the corner of lot of the estate of William Haston, deceased, thence along said Haston lot 200 feet to lands of the West Pittston Coal Company, thence long said lands 85 feet to lot contracted to Dennis Harris, thence along said lot 200 feet to Montgomery street, and thence along said street 85 feet to the place of beginning; containing 1,700 square feet of land more or less.

4

Suit of Abram Nesbit, trustee, v. A. Charles Naugle.
Shonk, Att'y.

All the surface of that lot of land in Plymouth beginning at a corner on Elm street, thence along a lot sold to Nathan Wandell 105 feet to a corner, thence along land lately owned bo John B Smith 51 5-10 feet to a corner, thence 92 feet to a corner, thence along said Elm street 50 feet to the place of beginning; containing 4.8 10 square feet of surface more or less; excepting and reserving all the coal and minerals; all improved with 2 double 2-storied frame dwelling houses, outbuildings, and fruit trees thereon.

6

Suit of Empire Building and Loan Association v. Thomas G. Davies and Mary S. Davies.
Wheaton, Att'y.

1. The surface of all that lot of land in the city of Wilkes-Barre, beginning at a corner on the northwest side of Sherman street 245 feet northeast from Market street, thence along Sherman street 80 feet to lot No. 30, thence along the same 190 feet to an alley 20 feet in width, thence along the same 80 feet to lot No 32, thence along the same 190 feet to the place of beginning, being lots Nos 31 and 31½ in block No. 3; all improved with 2 2-story frame dwelling houses, with 1-story back kitchen attached, also a frame barn, fruit trees and other outbuildings thereon.

2. The surface of all that lot of land in the city of Wilkes-Barre, beginning at a corner of lot No. 8 on southwest side Market street 208 feet southeast from Hancock street, thence along Market street 40 feet to lot No. 10, thence along the same and line of lot No. 12 140 feet to an alley 10 feet in width, thence along the same 40 feet to lot No 8, thence along the same 140 feet to the place of beginning, being lot No. 9 in block No. 8; all improved with 1 2-story and basement double frame dwelling house or block, 2 2-story frame barn, a 1-story frame kitchen, fruit trees and other outbuildings thereon. 51-1

ADMINISTRATOR'S SALE.

Estate of P. V. Wambold, late of Kingston borough, Luzerne county, deceased By virtue of an order of the Orphans' Court of Luzerne county to me directed, I will expose to public sale on the premises, on Saturday, January 10, 1885, at 2 o'clock P. M., the following real estate, being two lots of land in Kingston borough:

The first thereof beginning on the main road leading to Wyoming on east side at corner of land sold to William Church, thence along said street 60 feet to line of Kingston farm, thence by the same 181 5-10 feet to a corner, thence along same 60 feet to a corner on said Church lot, thence by the same 181 5-10 feet to beginning; containing about 10,890 square feet of land; all improved with a 2-story wood store and dwelling combined, 1 shop, and 1 3 story wood workshop and barn attached thereon.

The second thereof beginning at a corner on main road leading to Wyoming on east side, at corner of lot sold R. H. Tubbs, thence by said main road 60 feet to land of Mrs. John D. Hoyt, thence by the same 181½ feet to a corner on the Rutter farm, thence by the same 60 feet to a corner on said lot of R. H. Tubbs, now Mrs. W. G Colley, thence by the same 181 feet to beginning; containing 10,890 square feet of land; all improved with 3 separate wood shops, houses or buildings thereon.

TERMS OF SALE—One-third down, 25 per cent. of balance on confirmation of sale and delivery of deed, and the balance, with interest from confirmation, one year from day of sale, or sooner if purchaser desires. Deferred payments to be secured by bond and mortgage on the premises.

C. A. WAMBOLD,
Administratrix.

H. B. PAYNE,
Attorney. 50-52

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AUDITOR'S NOTICE.
In re partition of the real estate of John R. Brodhead, deceased. The undersigned, an auditor appointed by the Orphans' Court of Luzerne county to ascertain whether there were any liens or other incumbrances on the real estate taken in partition in said estate affecting the interests of the parties, and to marshal the same; also to ascertain and apportion the expenses of partition, and also to report amount of recognizance to be given by the accepting heirs, hereby gives notice that he will attend to the duties of his appointment at his office, No. 19 Harvey Buildings, on Franklin street, Wilkes-Barre, Pa., on Monday, the 22d day of December, A. D. 1884, at 10 o'clock A. M., when and where all parties interested are requested to present their claims before the undersigned, or forever be debarred from coming in upon said fund.

C. F. BOHAN,
48-51 Auditor.

AUDITOR'S NOTICE.
In the Court of Common Pleas of Luzerne county. No. 120 April Term, 1859. In Re D. S. Kidder. The undersigned, an auditor appointed by the Court of Common Pleas of Luzerne county to pass upon the exceptions filed to the account of Joseph Brown, committee in above stated case, and make distribution of the moneys found to be in the hands of said committee to and among the parties entitled thereto, and make report thereof, hereby gives notice that he will attend to the duties of his appointment at his office, No. 5 Equity Place, on Franklin street in the city of Wilkes-Barre, on Friday, January 9, 1885, at 10 o'clock A. M., at which time and place all parties interested are notified to appear and present their claims, or else be debarred from coming in on said fund.

EDWIN SHORTZ,
50-1 Auditor.

ORPHANS' COURT SALE.
Estate of Richard Knouse, deceased. By virtue of an order of the Orphan's Court of Luzerne county, there will be exposed to public sale, on the premises in Butler township, on Saturday, January 3, A. D. 1885, at 1 o'clock P. M., the following real estate:

1. All that lot of land in the township of Butler beginning at a stone corner in public road, thence 12 3-10 perches to post, thence by land of John Gohn 13 1-10 perches to a post, thence by same 12 3-10 perches to a corner in public road, thence along said road 13 1-10 perches to the place of beginning; containing 1 acre; all improved with a 1½-story plank dwelling house and small outbuildings thereon.

2. The second lot is situated in Butler township, bounded on the east by a private road and land of Adam Smith, on the North by land of said Adam Smith, on the west by land of Conrad Sondrock, and on the south by lot of Polly Crissinger; containing 1 acre more or less; all improved with no building thereon.

TERMS OF SALE.—One-third cash on day of sale, one-third on confirmation of sale, and balance with interest from confirmation of sale, and balance in six months from day of sale, deferred payments to be secured by bond and mortgage.

HENRY GILMORE,
H. B. PAYNE, Administrator.
Attorney. 51-1

ORPHANS' COURT SALE.
In Re estate of Nicholas Gerlitz, deceased, In partition. By virtue of an order of the Orphans' Court of Luzerne county the undersigned will expose to public sale, on the premises, on Friday, January 9, 1885, at 10 o'clock A. M., all that piece of land in the city of Wilkes-Barre beginning at a corner on the north side of Main street and lot owned late by Jacob Flickner, and running back along the line of the said Flickner's lot 140 feet to a corner and another tier of lots, thence on a line parallel with said Main street 45 feet to a corner and lot late of Wartman & Company, thence along the line of the said Wartman & Company's lot 140 feet to a corner on said Main street, thence along the line of the said Main street 45 feet to the place of beginning; containing 5,300 square feet of land, more or less; all improved with 2 2-story frame houses and outbuildings, embracing also the title to the coal under the land.

TERMS OF SALE.—$500 cash down, one-half of balance, with interest on the whole sum unpaid, on the day of the confirmation of sale, and the balance, with interest thereon, one year from the day of confirmation of sale; deferred payments to be secured by bond and mortgage.

F. J. SCHWAB,
GUSTAV HAHN, Executor and Trustee.
Attorney. 51-1

ORPHANS' COURT SALE.
Estate of Owen Finnerty, deceased. By virtue of an order of the Orphans' Court of Luzerne county, there will be exposed to public sale, on the premises, on Saturday, December 27, 1884, at 4 o'clock P. M., the following real estate:

The surface of all that lot of land in Plymouth bounded on the east by Harris street, on the south by land of John J. Shonk, on the west and north by land of William H. Cool and others; being 50 feet in front on Harris street and 150 feet deep, and containing about 7,500 square feet of surface, more or less: all improved with 1 small 2-storied frame dwelling house, a wash house, and other outbuildings thereon.

TERMS OF SALE.—$200 down, 25 per cent. of balance on confirmation of sale and delivery of deed, and balance, with interest from confirmation of sale, in six months from confirmation of sale, deferred payments to be secured by bond and mortgage on the premises.

OWEN FINNERTY,
GEO. W. SHONK, Administrator.
Attorney. 49-51

NOTICE IS HEREBY GIVEN THAT AN application will be made to the Governor of Pennsylvania, on or before the 27th day of December A. D. 1884, by Calvin Parsons, R. J. Flick, H. Baker Hillman, A. A. Stirling, and A. J. Davis under the Act of Assembly entitled "An Act to Provide for the Incorporation and Regulation of Certain Corporations," approved April 29th, 1874, and the supplements thereto, for the re-charter of the Warrior Run Mining Company, to be called the Warrior Run Mining Company, the character and object of which is to purchase, lease, hold, sell, and convey coal lands, to mine and quarry coal therefrom, and to prepare coal for market, to buy, sell, and ship coal, and to transact all business connected therewith, and for these purposes to have, possess, and enjoy all the rights, benefits, and privileges of said Act of Assembly, and supplements thereto.

E. P. & J. V. DARLING,
49-51 Solicitors.

NOTICE IS HEREBY GIVEN THAT AN application will be made to the Court of Common Pleas of Luzerne county, on Monday, the 19th day of January, A. D. 1885, at 10 o'clock A. M., under the Act of the General Assembly of the Commonwealth of Pennsylvania, entitled "An Act to Provide for the Incorporation of Certain Corporations," approved April 29, 1874, and the supplements thereto, for the charter of an intended corporation to be called the "Wyoming Council No. 172 of the Order of the United American Mechanics, of Pittston, Pa." The character and object of said corporation are charity, sobriety, and benevolence.

F. C. MOSIER,
51-1 Solicitor.

NOTICE IS HEREBY GIVEN THAT AN application will be made to the Governor of the state of Pennsylvania, under the Corporation Amendment Act of one thousand eight hundred and eighty-three, for the amendment of the charter of The Plain-Dealer Printing Company, the character and object of said amendment being to change the name of the said corporation to The Economic Printing Company, and to increase the capital stock to $10,000.

JOHN S. HARDING,
50-52 Solicitor.

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LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 164, October term, 1884. Libel in divorce a vinculo matrimonii. Emma J. Beebe, by her next friend, Mary W. Ensign, *v.* Justin W. Beebe. The alias subpœna in the above case having been returned, "That the said Justin W. Beebe cannot be found in Luzerne county," you, the said Justin W. Beebe, respondent, are required to appear on Monday, January 12, 1885, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.

W. J. HUGHES,
Attorney. 48-51

LUZERNE COUNTY, ss:

In the Court of Common Pleas of said county. No. 140, October term, 1884. Libel in divorce a vinculo matrimonii. E. W. Rutter *v.* Emma J. Rutter. The alias subpoena in the above case having been returned, "that the said Emma J. Rutter cannot be found in Luzerne county." you, the said Emma J. Rutter, respondent, are required to appear on Monday, January 12, A. D. 1885, at 10 o'clock A. M., in said court, to answer the complaint filed in this case.

J. S. OBERRENDER,
Sheriff.

J. D. HAYES,
Attorney. 48-51

IN THE COURT OF QUARTER SESSIONS of Luzerne county. No. 255 September term, 1884. In Re election district in the borough of Hazleton. Notice is hereby given that the report of the Commissioners in the above stated case has been filed with the Clerk of the Court of Quarter Sessions, and was confirmed nisi by the court on the 9th day of December, 1884, and that said report will be confirmed absolutely by the court unless exceptions thereto be filed not later than the third day of the next term of said court.

L. K. STRENG,
Clerk Q. S.

C. W. KLINE,
Attorney. 50-52

IN THE ORPHANS' COURT OF LUZERNE county. In Re estate of William Masterson, deceased. Now, November 29, 1884, on motion of D W. Connolly and Davis, attorneys for J. J. Cummiskey, administrator of said deceased, court grant rule on Mary Masterson, widow, and Edward Masterson, heir of William Masterson, deceased, both residents of Shenandoah, Schuylkill county, Pennsylvania, to show cause why said administrator shall not be discharged from further acting as administrator of said estate. Returnable December 27, 1884.

BY THE COURT.

50-52

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NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Philip Brener, and that said license will be asked for in the court aforesaid, on Monday, January 26th, 1885, at 10 o'clock A. M.

S. J. STRAUSS,
Solicitor.

51-52

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by M. L. Brener, and that said license will be asked for in the court aforesaid, on Monday, January 26th, 1885, at 10 o'clock A. M.

S. J. STRAUSS,
Solicitor.

51-52

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Abraham Simon, and that said license will be asked for in the court aforesaid, on Monday, January 26th, 1885, at 10 o'clock A. M.

ABRAHAM SIMON,
Solicitor.

51-52

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ESTATE OF ELIJA KRICKBAUM, LATE OF Huntington township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. B. KRIC' BAUM,
Town Hill, Pa.

47-52

ESTATE OF THEODORE KRAMPITS, LATE of Nanticoke, deceased.

Letters of administration *de bonis non* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

F. J. HELFRICH,
Wilkes-Barre, Pa.

W. S. McLEAN,
Attorney. 51-4

ESTATE OF FRANK L. SNYDER, LATE OF Dallas, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CORA L. SNYDER,
Dallas, Pa.

48-53

ESTATE OF PENELOPE E. B. CRAWFORD, late of Cincinnati, Ohio, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

OSCAR J. HARVEY,
Wilkes-Barre, Pa.

46-51

ESTATE OF ABRAM DE WITT, LATE OF Franklin township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

V. L. LEWIS.
Exeter Pa

L. W. DE WITT,
Attorney. 50-3

ESTATE OF OWEN DONOHUE, LATE OF Foster township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SAMUEL B. PRICE,
Upper Lehigh Pa.

50-3

ESTATE OF HENRY KANE, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

MARY KANE,
Wilkes-Barre, Pa.

6-51

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ESTATE OF RODMAN C. BROWNING, LATE of Kingston borough, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands, to present the same, without delay, to

ELIZABETH S. BROWNING,
H. W. DUNNING, Kingston, Pa.
46-51 Attorney.

ESTATE OF SARAH MYERS, LATE OF Newport township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARRIET FAIRCHILD,
B. M. ESPY, Alden, Pa.
Attorney. 47-52

ESTATE OF JOSEPH B. ROSS, LATE OF Franklin township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES FRANTZ,
L. W. DE WITT, Orange, Pa.
Attorney. 50-3

ESTATE OF SHERIDAN WOODRING, LATE of Butler township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SUSANNA WOODRING,
STEPHEN WOODRING,
E. P. KISNER, Drums, Pa.
Attorney. 51-4

ESTATE OF SAMUEL WHITEBRED, LATE of Hollenback township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN P. WHITEBRED,
W. S. McLEAN, Hobbie, Pa.
Attorney. 47-52

ESTATE OF JOHN POLSUE, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARRIET A. POLSUE,
D. M. JONES, Wilkes-Barre, Pa.
Attorney. 48-53

ESTATE OF ADAM BACHMAN, LATE OF Hazleton, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHRISTIAN BACHMAN,
49-2 Hazleton, Pa.

ESTATE OF PETER BEISEL, LATE OF Butler township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BARBARA BEISEL,
47-52 Drums, Pa.

ESTATE OF NICHOLAS SCHILLINGER, late of Wilkes-Barre, deceased.

Letters of administration, *de bonis non*, upon the above named estate having been granted to the undersigned, all persons having claims against the same will present them for payment, and those indebted thereto will please make immediate payment to

ALEXANDER MITCHELL,
G. L. HALSEY, Wilkes-Barre, Pa.
Attorney. 50-3

ESTATE OF ELLEN D. COOLEY, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

E. P. DARLING,
49-2 Wilkes-Barre, Pa.

ESTATE OF DAVID SCOTT KIDDER, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES H. KIDDER,
46-51 Wilkes-Barre, Pa.

ESTATE OF BARBARA HEIBEL, LATE OF Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

PHILIP G. KILIAN,
EDWARD S. MILLER,
GUSTAV HAHN,
Attorney. 50-3

ESTATE OF JOSEPH B. EDWARDS, LATE of Lehman township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

R. A. WHITEMAN,
51-4 Lehman, Pa.

ESTATE OF JOHN P. NULTON, LATE OF Franklin township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ISAAC L. NULTON
L. W. DE WITT, Lehman, Pa.
Attorney, 51-1

ESTATE OF CATHARINE, TREFFEISEN, late of Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHRISTIAN TREFFEISEN
GUSTAV HAHN, Pittston, Pa.
Attorney. 48-53

ESTATE OF THOMAS FARRALL, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

H. H. DERR,
H. A. FULLER, Wilkes-Barre, Pa.
Attorney. 48-53

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ESTATE OF JOHN JACOB DuBOIS, LATE of White Haven, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE A. DuBOIS,
EDWIN SHORTZ, White Haven, Pa.
Attorney. 50-3

ESTATE OF CATHARINE McGUIRE, LATE of Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

JOHN GORMAN,
49-2 Hazleton, Pa.

WILLIAM S. McLEAN,

ATTORNEY AT LAW,

WILKES-BARRE, PA.

ESTATE OF PETER HOLMAN, LATE OF Hazle township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES HOLMAN,
C. W. KLINE, Hazleton, Pa.
Attorney. 47-52

ESTATE OF JAMES COWANS, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ROBERT COWANS,
C. W. KLINE, Hazleton, Pa.
Attorney. 48-53

W. S. PARSONS,

ALDERMAN,

WILKES-BARRE, PA.

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THE LUZERNE LEGAL REGISTER.

VOL. XIII. FRIDAY, DECEMBER 26, 1884. NO. 52.

Court of Quarter Sessions of Luzerne County.

IN RE LICENSE OF C. S. GABEL.

Liquors—License—Revocation of—Act July 9, 1881, P. L. 162—Theatre.

1. The courts have power to revoke a liquor license, upon cause shown.
2. Discretion of the court considered.
3. Maintaining a theatre having communication with the hotel bar-room in contravention of the act of July 9, 1881, is cause for revoking the hotel license.
4. Where the business is being conducted by the person licensed, unlawfully, and in such a way as to make it unlawful for the court to grant him a license, it is the duty of the court, on the facts being shown, to revoke the license already granted.

Rule to show cause why license should not be revoked.

The opinion of the court was delivered December 20, 1884, by

RICE, P. J.—The first section of the act of July 9, 1881, P. L. 162, provides as follows: "That no license for the sale of vinous, spirituous, malt, or brewed liquors * * * shall be granted to the proprietors, lessees, keepers, or managers of any theatres, circus, museum, or other place of amusement, nor shall any house be licensed for the sale of such liquors * * * which has passage or communication to or with any theatre, circus, museum, or other place of amusement, and any license granted contrary to this act shall be null and void." The second section makes any violation of the act a misdemeanor. The respondent has been licensed as a hotel keeper for several years. When his application for license for the present year came up for hearing a remonstrance was presented in which the specific objection was made that he kept a variety show, or place of amusement, in connection with the hotel proposed to be licensed. The facts

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were admitted, and on the admitted facts the court were of opinion that the case came within the prohibition of the act aforesaid, and that no license could be granted to the respondent unless the keeping of the place of amusement was entirely abandoned. The respondent, through his counsel, undertook to discontinue the same if his license should be granted. This, being a mere undertaking to discontinue, was not entirely satisfactory to the court, and the case having been held under advisement, we required the respondent to make proof that it had, in fact, been discontinued. This proof having been made by affidavit filed, the court, acting on the faith of the respondent's undertaking, granted the license. In October last the petition of a citizen of the county, and sworn to by the county detective, was presented praying for the revocation of the license. The petition recites the circumstances under which the license was granted and then proceeds as follows: "That a variety show or place of amusement is now being conducted at the said hotel of the said Gabel, and having connection therewith, the patrons of which are supplied with intoxicating drinks and cigars from the bar of said Gabel's hotel, which are served in the said theatre, or place of amusement. The admission fee to the show is fifteen cents, for which each person admitted receives a ticket marked 'C. S. Gabel, Prop., 5 cts.,' which is good for one glass of beer or one cigar at the bar of said Gabel, or the same can be ordered and received by the patron in said theatre." An answer was filed and depositions have been taken. The facts established are substantially as follows: First. Sometime in August or September last the place of amusement formerly kept by the respondent was re-opened under the nominal management of one Otto Heboe, the arrangement being that the latter should employ the actors and should pay the respondent fifty dollars per month if the business turned out profitably. Second. The tickets described in the petition were given to patrons of the theatre, and were redeemable for a time at a small bar in the body of the theatre, but afterwards at the main bar of the respondent in his hotel. The revenue license for the small bar was taken out in the name of Heboe, but was paid for by the respondent; the drinks and cigars for the small bar were also supplied by the respondent; and the responden

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and members of his family at times waited on customers at this bar. Third. The main entrance to the theatre was from Washington street, but there was, also, direct communication between the respondent's hotel bar-room and the theatre. While the performance on the stage was progressing, waiters brought drinks and served them to the spectators, through the door communicating between the bar-room and the theatre. Fourth. The theatre was thus maintained for three weeks or more, but was discontinued when this petition was served on the respondent, and has not since been re-opened. The irresistible conclusion from this evidence is, that while the theatre, or place of amusement, was maintained there was a direct and continued violation of the spirit, as well as the letter, of the act of assembly, by the respondent. We do not consider it necessary to discuss this point. The question is, what is the power of the court in the premises, and how and under what circumstances is it to be exercised? The act of March 22, 1867, P. L. 40, P. D. 945, pl. 29, provides that "upon sufficient cause being shown, the said courts shall have power to revoke any license granted by them." We do not find that this provision has been repealed or supplied by any subsequent legislation, and we have no doubt that it gives the court jurisdiction in a proper case to revoke a license granted by them. As the counsel for the respondent argues, it is a discretionary power, but the discretion which we are called upon to exercise is a sound judicial discretion; it is not the mere whim, caprice, or inclination of the judge in the particular case. As a means of enforcing the license laws the legislature saw fit to grant the power to revoke a license upon cause shown. This power has been vested in the courts, and while the language of the act is permissive in terms, it is mandatory upon the courts in effect and intention. A refusal by the court to exercise the power in a proper case would be an abuse of discretion as flagrant as to revoke a license for no cause. The question then arises, whether cause for revoking this license has been shown. In deciding this question we feel bound, in view of the circumstances heretofore stated under which the license was granted, to consider the facts of the case as they existed at the time the present petition was filed. The reasons for this conclusion are apparent from the statement

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of facts which we have already given, and need not be enlarged upon. As the facts existed when this petition was filed, it would have been unlawful to grant a license to the respondent. His place was within the prohibition of the act, and a license granted to him under those circumstances would have been null and void. It would be impracticable and perhaps out of place to undertake to specify all the causes which the court would regard as sufficient for the revocation of a license, but I think this may safely be stated as a general rule, that where the business is being conducted by the licensee in an unlawful manner, and in such a way, or under such circumstances as to make it unlawful for the court to grant him a license, it is the duty of the court, on the facts being shown, to revoke the license already granted. See Hastings' Case, 39 Leg. Int. 440.

The rule is made absolute.

H. W. Palmer, for petition.
Thomas R. Martin, *contra.*

William and Anna (*Boice*) Scott, of Litchfield, Hartford county, Conn., had thirteen children. Gardner, the eldest, who was born September 10, 1767, settled near Geneseo, N. Y. George, one of his sons, born in 1784, came to Pennsylvania when a young man and settled in Towanda. He was commissioned an associciate judge of Bradford county in 1812, and held the position until 1818; as prothonotary in 1818; as clerk of the courts of Quarter Sessions, Oyer and Terminer, and of the Orphans' Court in 1824, and held these last positions until 1830. He was the clerk of the commissioners from 1815 to 1819, and was county treasurer in 1823 and 1824. He was the publisher for a time, also, of the *Bradford Settler*, and was prominent in the politics of the county for many years. He married a Miss Strope, of Wysox, a daughter of Henry Strope and a granddaughter of Sebastian Strope, and was the father of H. Lawrence Scott, at one time United States collector of internal revenue, and from 1851 to 1854 register of wills, recorder of deeds, and clerk of the Orphans' Court of Bradford county, Pa. One of his daughters married

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Burton Kingsbury, and another General H. J. Madill. Sebastian Strope was one of the first settlers of Wysox, Bradford county, Pa., he having located there in 1776 in connection with his brother Isaac, his father-in-law, Isaac Van Valkenburg, and Hermanas Van Valkenburg. These settlers came from near Claverack, Columbia county, N. Y. He died in Wysox in 1805, aged seventy years. His neighbors bore testimony to his worth and integrity as a man and citizen. He was in the colonial army and engaged at the battle of Wyoming, and escaped from the fearful massacre by hiding in a patch of thistles which had grown up in an old stock yard. He was a fearful and silent spectator of the butchery of Lieutenant Shoemaker by the tory Windecker after he had promised his unfortunate victim quarter. His wife was captured by the Indians May 19, 1778, and remained in captivity nearly three years. The mother of Mrs. Scott was Catharine, daughter of Rudolph Fox. He was the first permanent white settler of Bradford county. In the month of March, 1777, while in search of his cattle, he was seized and taken a captive to Quebec, where he was kept for nine months, during all of which time his family were ignorant of his fate. Luther Scott, another son, was born in 1788 and resided in Wilkes-Barre for awhile with his brother David. He received a lieutenant's commission in the United States army in 1812. During the war of 1812–14 he distinguished himself by his activity, courage, and fidelity, for which he received honorable mention. After the war, being then a captain of artillery, he accompanied Commodore Decatur on the expedition to Algiers. During the Creek war he was stationed at different points in Mississippi, Alabama, and Florida. His duties were arduous and perplexing, and in the faithful discharge of them his health became impaired. He died at New Orleans, April 8, 1819. He was the author of a work on artillery practice. David Scott, the eighth child of William Scott, was born at Blandford, Mass., April 3, 1782. When about eighteen years of age David left home and went to reside with his brother, Gardner Scott, at Geneseo, N. Y. There he remained three or four years, and then went to reside with his brother George, at Towanda. He there engaged in school teaching, his school being in Towanda town-

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ship. While residing in Towanda he had a long and severe attack of fever, and his life was saved after he had got so low that he could not speak above a whisper, by his nurse allowing him to drink freely of water, against the positive directions of the attending physician. In December, 1806, he located in Wilkes-Barre and became a student of law under Thomas Graham, who was admitted to the bar of Luzerne county in 1798. Mr. Graham was a member of the board of trustees of the Wilkes-Barre academy from 1807 to 1814. He died April 26, 1814. During the next two years David Scott read law, taught school, and engaged in other industrial pursuits. He was admitted to the bar of Luzerne county January 3, 1809. On January 16, 1809, he was appointed and commissioned by Governor Snyder prothonotary of the court of Common Pleas, and clerk of the Orphans' Court, Quarter Sessions, and Oyer and Terminer. These offices he held until the year 1816. He was commissioned a notary public February 24, 1810. In 1816 he was elected a representative to congress from the Luzerne district, but before the time for taking his seat arrived Governor Snyder tendered him the commission of president judge of the judicial district composed of the counties of Dauphin, Schuylkill, and Lebanon. He was commissioned on December 21, 1816, and soon thereafter removed with his family to Harrisburg. He served as president judge of this district until July 29, 1818, when he was commissioned by Governor Findlay president judge of the Eleventh judicial district (comprising Luzerne and three other counties) to succeed Judge Burnside. He held his first court at Wilkes-Barre in August, 1818. In 1819 he was elected a member of the board of trustees of the Wilkes-Barre academy, and served in that position until 1838. From May, 1824, until May, 1827, Judge Scott was burgess of the borough of Wilkes-Barre. He was one of the vice presidents of the Luzerne County Bible society in 1819, the year of its organization, and from 1828 to 1830 was its president. From 1827 to 1829 he was president of the Luzerne County Temperance society. He was the founder of the Protestant Episcopal church in Wilkes-Barre, and instituted in his office the first Sunday school organized in northeastern Pennsylvania. During several years he was canal commissioner and

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president of the board of public works of Pennsylvania, and as canal commissioner he refused to take any salary because he was receiving a salary of sixteen hundred dollars a year as a judge. "To him, George Denison, and Garrick Mallery the people of Luzerne county were more indebted for the North Branch Canal than, probably, to all others combined." In the summer of 1837 Judge Scott had some intention of retiring from the bench—would do so, in fact, if he could have assurance that a person whom he could approve would be appointed his successor. The matter was broached to Governor Ritner by a mutual friend. The governor, after some hesitation, promised to appoint Nathaniel B. Eldred, then president judge of the Eighteenth judicial district, to the Luzerne district if Judge Scott would resign. This suited the latter, and in March, 1838, he drew up his resignation and delivered it to the "mutual friend." Upon its delivery to Governor Ritner, he promised to apppoint Judge Eldred "and no other man." On April 7, however, Judge Scott, Judge Eldred, and the "mutual friend" were astonished by the announcement that Governer Ritner had appointed William Jessup president judge of the Eleventh judicial district. It is well to here remark that Luzerne county never had a purer or abler judge than Judge Jessup. Judge Scott was an eminent example of the invigorating effects and auspicious influences of our republican institutions upon the actions and fate of men. To speak with the strictest regard to truth, unmixed with romance or flattery, Judge Scott was a self-made man. Unaided by wealth or influential connections, with no other capital than his head and his hands to commence with, he rose from the humbler walks of life to some of the most eminent and respectable public stations, occupying in his advance upwards, many intermediate public positions of varied and important responsibilities, and filling all with that measure of ability and industry which alone make office respectable, and secures to the people the legitimate benefits of a well administered government. In all the private relations of life Judge Scott bore the reputation of stern integrity and strict regard to morality and justice. For several of the latter years of his life he labored under painful bodily infirmities, the results of the severe application of his earlier years. A par-

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alytic affection had seated itself upon his system which, in the end, subdued a constitution not naturally very robust. We here re produce a portion of an article upon Judge Scott which was written in 1876 for the LUZERNE LEGAL REGISTER by the late Hendrick Bradley Wright:

"The young lawyer who had hardly made his first brief is elected to congress, and before he takes the oath of office is transferred to the bench! A truly rapid progress. His judgment and intellect formed in bold relief the outline of a character which made and left its impression upon the circle in which he moved. With great energy he overcame the obstacles of early life which lay in the path before him, and moved steadily forward to the point of his ambition, and he attained it. In a fair and honorable encounter with the world he reached the summit, the summit of *his* ambition. He could not be said, as a judge, to be a book lawyer. Perhaps he did not read as much as a judge should read. He had no occasion to do this, as Graham, Wells, Bowman, Denison, Mallery, Conyngham, Collins and others were attendants and practitioners in his courts. If he were leaning from the rule of an adjudicated case their keen eye would surely bring him to the point. They were all able lawyers, and no on knew it better than he. But, if he did not read, he thought; and when the mind of David Scott was aroused there was a great intellect at work; and seldom did he fail to arrive at a correct conclusion. If he did not in all cases give the correct reason for his opinion, still the result he reached was the law of the case. In a conversation with the writer of this article, while yet on the bench, he said: 'You will sometime be a judge, decide promptly, after understanding the facts of the case, from your first impressions—they are always the best and most reliable—and in this way you will seldom be wrong; such has been my practice;' and he added further in an undertone, 'you need not always give the reasons upon which you base your judgment.' This, undoubtedly, was his practice. He relied upon his strong mind, and very seldom did it lead him astray. There was emphasis in his language and manner. In his charges to the jury you could see the big veins raise upon his broad and massive forehead as he moved on with his argument, and his remarkably clear and penetrating eye would of itself attract your attention. His language was plain, uttered in distinct sentences, without regard to rhetoric, but always to the point. He was remarkably fair in the statement of his legal points, and no lawyer had just cause of complaint that the written charge, filed on exceptions, varied from the one that preceded it to the jury. The jury, too,

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well understood the bent of his mind, though he expressed no opinion on the facts. The lawyer who went into court with a good cause succeeded; but if it were defective in law or fact he got no mercy from the bench. And what better encomium can be passed upon a judge, reserving always strict honor and unbending integrity. Never in the long term that David Scott presided on the Luzerne bench did I hear the imputation that he acted under bias or improper influence. He was a man of strong prejudices as well as strong mind, and the two generally go together; but no man ever intimated that he was the object of persecution in court, resulting from these prejudices. David Scott was no advocate; at least not one that would have become eminent in the forum. I have heard him speak at public meetings on different subjects, and he failed to make a decided hit. What he said was to the point, and good sense, but the emphatic manner and somewhat discordant style lessened the effect. He was not what the world calls an orator. He dealt too much in facts. His thoughts were electric, and he passed with too much rapidity from one point to another, and did not dress them up in such language as is calculated to please the assembly. He was in his element on the bench, and hence dealt with the dry elements of the law, not only with effect, but with an ardent relish. He liked it. *Stare decisis* was not always the rule of his actions. His pride of opinion sometimes led him astray from the adjudicated track, though probably not from the true one. I remember well, in listening to the trial of Warder and Tainter in the court of this county, that he refused to admit the doctrine that the return of two *nihils* on a *scire facias* to foreclose a mortgage 'restored a dead man to life,' and the probability is that a large majority of the profession to-day are of Judge Scott's opinion. But they took a writ of error, and reversed him. Where the reason is to sustain the doctrine that two *nihils* are equivalent to notice may be a very difficult one to be found. He came down pell-mell on the writer in Hobbs *v.* Fogg, where we were attempting to make the point that a negro was not a citizen, and the Supreme Court would, undoubtedly, have affirmed the ruling of Judge Scott had not the convention entrusted with the amendments to the constitution put the word 'white' in that instrument while the court were advising on the question. Few judges in Pennsylvania during the time of David Scott had a reputation for more ability or integrity of purpose. Very few of his causes went up on writ of error from Luzerne. In Wayne and Pike (a part of his district) the decision of David Scott was treated as the law, and probably during his twenty years on the bench not ten cases went up from these two counties. As a criminal judge

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he was humane in his sentences. Though remarkably fair and decided, and apparently a severe judge against offenders, his judgments were always tempered with mercy. We have known him to change the term of imprisonment which he had written out and before him, and the prisoner on the floor for sentence, where suggestions have come voluntarily from some member of the bar in the prisoner's favor. His heart was filled with generous impulses. But if he had made up his mind, and believed he was right, then no man had more decision. He would not yield. His manner and deportment on the bench to the bar was uniformly pleasant and forbearing. But ill betide the lawyer who interrupted him in his charge to the jury. Particularly to young men he was remarkably affable. Many are the times when we have heard him supply the wanting word, or give the nod of an encouraging assent, to the young lawyer who was hesitating and doubting whether he was making his point or not. During the latter part of his judicial career his deafness, which had more or less afflicted him for many years, grew upon him, and at times it required a loud voice to make him hear. His position on the bench during the taking of evidence, or hearing the argument of counsel, was with one hand back of his ear, and leaning forward. And his deafness, probably, gave rise to the fact of a somewhat noisy court house for many years after he left the bench, but which, we are glad to see, has been corrected, much to the credit of the court and the convenience of the profession. We should say, in the summary of this article, that the leading prominent traits of character in Judge Scott were firmness and decision, large conceptive powers, and a mind peculiarly well balanced. To these add integrity of purpose, and you have a portrait of the man as he was."

The late Chief Justice Woodward, who was admitted to the Luzerne bar August 3, 1830, and practiced before Judge Scott for nearly eight years, described him as "one of the ablest men that ever presided in a Pennsylvania court of justice, stern as the image of justice itself. He was an honest, upright judge—a little overbearing sometimes, and always of irascible and pugnacious temper." It was often observed of him that if he had been in military life he would, most probably have been distinguished. The ancestor of Judge Scott was at the battle of Culloden, on Drummossie moor, near Irverness, Scotland, which was fought April 16, 1746. After the defeat of the Scottish troops Judge Scott's ancestor went to the county of Cavan, in

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Ireland, and subsequently one of his sons emigrated to the Berkshire hills, in Massachusetts, and the other to Virginia. General Winfield S. Scott was a descendant of the Virginia branch, and Judge Scott of the Massachusetts family. These facts were corroborated by a conversation held between General Scott and Judge Scott some years prior to the death of the latter. Judge Scott died at Wilkes-Barre December 29, 1839, and his remains are interred in the Hollenback cemetery of this city. Judge Scott was twice married, the first time September 1, 1811, to Catharine Hancock, daughter of Jonathan Hancock, of Wilkes-Barre. She died November 15, 1832, and on March 1, 1836, he married Mrs. Mary Dorrance, *nee* Elder, of Lykens Valley, Dauphin county, Pa. She was the daughter of David Elder and his wife, Jane, daughter of Colonel Bertram Galbraith. Mr. Elder was the son of Rev. John Elder, who for fifty-six years was a minister of the gospel at Paxton, Pa. Colonel Galbraith was a grandson of Rev. William Bertram, first pastor of the church at Derry, Pa. The first husband of Mrs. Scott was Henry B. Dorrance, M. D., a cousin of the late Benjamin Dorrance, of Kingston, Pa. Judge Scott had seven children, all by his first wife, as follows: William Boice Scott; Martha A. Scott, who married Luther Kidder (Rev. Charles Holland Kidder, late rector of St. Clement's P. E. church of Wilkes-Barre, is a son of the late Judge Kidder); Marietta Scott, who married Oliver Watson, of Williamsport, Pa. (Mrs. Watson is the only survivor of her father's family); Catharine Scott, who married the late Judge Warren J. Woodward; Elizabeth Scott, who married R. Bethel Claxton, D. D., rector of St. Stephen's P. E. church, Wilkes-Barre, from 1840 to 1848; Ellen Scott, who died unmarried; and George Scott, who was register of wills of Luzerne county in 1859 and 1860, and who was admitted to the Luzerne county bar January 10, 1854, and who died unmarried at Wilkes-Barre September 26, 1861. William Boice Scott, the father of Eben Greenough Scott, the subject of this sketch, was a native of Wilkes-Barre, and died when quite a young man. He married Susan Israel Greenough, daughter of Ebenezer Greenough, a native of Canterbury, N. H. At the beginning of the present century, from 1800 to 1825, there was a very noticeable accession to northern Pennsylvania

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of many persons of the cultured and higher classes of New England, and among them was Ebenezer Greenough, then in his twenty-second year and a graduate of Harvard college. The force and self-reliance of his character were indicated in some of the circumstances attending his journey. It was performed in the saddle, and he declined accepting from his parents a larger sum than that which would suffice for his traveling expenses, preferring to depend in the future upon his own exertions. He was furnished with several letters of introduction from persons of position and influence. In one written by Rev. Abiel Foster, one of the most prominent of New Hampshire's public men, these words occur: "He is a young gentleman of a respectable family in this town. His moral character is fair and unimpeachable, his disposition modest and amiable." Referring to the memoranda of his early life it appears that his father was a merchant, and was born in Haverhill, Mass., December 11, 1783. His mother was the daughter of Ebenezer Flagg, of New Hampshire, and the family consisted of eight children; four sons and four daugters. Consonant with the laudable desire of the mother each son received a careful collegiate education, and each in due course acquired considerable wealth and influence. Except when in the academy or college, the youth of Ebenezer was passed with his parents. During the vacation period he taught school and applied his earnings to the expense of his own training. At Wilkes-Barre he was tendered the principalship of the academy, which he accepted, continuing to act in this capacity for three years, and discharging its duties with ability and success. While in Wilkes-Barre he entered upon the study of the law in the office of Ebenezer Bowman (a graduate of Harvard college in the class of 1782, and who was admitted to practice in the Luzerne county courts May 27, 1787) and upon removing to Sunbury in 1807, he finished his legal course of study under the tuition of Charles Hall of that place. On January 19, 1808, he was admitted to the Northumberland county bar, and immediately took a high rank in his profession. In 1811 he moved to Danville, Pa., but in 1815 returned to Sunbury, where he thereafter resided permanently. He was a federalist in a fervidly democratic county and state, and, although averse to holding office,

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was elected a member of the Pennsylvania legislature in 1829 His shrewd and superior intelligence was in constant requisition during the term of his legislative service; also in various other relations, regarding the drafting of important bills and the support of certain provisions calculated to meet the special demands and exigencies of the time. The beneficial influence which he was thus enabled to exercise unostentatiously upon the material interests of the state when in an incipient stage of its development, cannot be too highly praised or appreciated. As a lawyer he was one of the most successful and distinguished in the state, and his record is free from stain or blemish. With unusual powers, enriched and strengthened by a familiar acquaintance with men and literature; with a thorough knowledge of the details, subtleties, and complications of the law, he possessed a judgment at once clear and impartial, great calmness under the most perplexing circumstances, keen shrewdness, and penetrative mental perceptions that seldom erred. In the latter years of his life his health became much impaired; but the immediate cause of his death was an accident that happened while in his carriage, from which he was thrown with much violence. This event occurred December 25, 1847, and wherever he was known occasioned great sorrow and regret. His family consisted of seven children, one of whom, an only son, William Israel Greenough, is now an attorney of high repute in Sunbury.

Eben Greenough Scott was born in Wilkes-Barre, Pa., June 15, 1836. He was prepared for college at the Episcopal High school, near Alexandria, Va., then under the charge of Rev. E. A. Dalrymple, and also by Rev. Henry L. Jones, at Bridgeport, Conn. He then entered Yale college, from which he graduated in the class of 1858. Mr. Scott read law with his uncle, William I. Greenough, at Sunbury, and William M. Meredith, of Philadelphia, and was duly admitted to the bar of Philadelphia in June, 1860. He located at Pottsville, Pa., and subsequently in Sunbury, Pa., and practiced in each place for a number of years. While a resident of Sunbury in 1870, he was the democratic candidate for congress in the district composed of the counties of Dauphin, Juniata, Northumberland, Snyder, and Union, but was defeated by John B. Packer, republican, by a majority of two

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thousand three hundred and fifty-four. In 1871 Mr. Scott was the candidate of the democratic party for president judge of the Eighth judicial district, composed of the counties of Montour and Northumberland, and was defeated by W. M. Rockefeller, of Sunbury, owing to dissensions in the democratic party. On April 26, 1861, during the recent civil war, Mr. Scott joined company C, Eleventh regiment of Pennsylvania militia. He remained in this service about two months, and in June, 1861, received an appointment in the regular army, with the rank of first lieutenant. He served in the army of the Potomac under General McClellan, and subsequently was instructor of artillery at Fort Schuyler, New York harbor. He removed to Wilkes-Barre in 1872, and on September 9, 1872, was admitted to the bar of Luzerne county, where he has been in continuous practice since. On February 14, 1863, Mr. Scott was married to Elizabeth Woodward, daughter of the late ex-Chief Justice George W. Woodward, of this city. They have had two children, George Woodward Scott, and William Scott, both of whom are now deceased. It is with lawyers as with men in all other professions; some are profound and technical, slow-moving, but sure; others are vigorous rather than painstaking, courageous and self-reliant rather than careful. The first reach the goal they aim at by degrees, fortifying every stage of their progress, so that their being compelled to turn back is impossible, and gradually, but with the utmost certainty, they get there. The others make their way by vehement, indomitable push, avoiding incidentals as unimportant, but galloping, so to speak, to and with the main issue. Of the two the former are least frequently worsted. It is of them that most of the text-book writers come. Their methods of thought develop system, and their manner of working begets inclination to literary endeavor. Eben Greenough Scott came of good legal stock. Both his grandfathers were, in their day, distinguished lawyers. Ebenezer Greenough, of Sunbury, and Judge Scott, of Wilkes-Barre, were both, in their day, leading lights of the fraternity, and each left his impress upon the judicial proceedings of the community in which he lived. When yet a student the grandson was fond of committing his views to print, and many of the leading editorials of one of the then leading journals of Philadelphia, came

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from his pen and the pens of a bevy of college chums similarly inclined. When he went to the bar he quickly showed himself to be a very talented member of the first of the two classes above named, and many a vexed client has had reason to thank the conscientious deliberation and extreme care which he brought to the prosecution of their causes. In addition to his active practice he wrote and published in 1871, "Commentaries upon the Intestate System, and the Powers and Jurisdiction of the Orphans' Court of Pennsylvania," a work of great value in a professional library. Another book, "Developments of Constitutional Liberty in the English Colonies of America," elicited praise, both in this country and in Europe. In recognition of warm these and other literary labors he was recently elected a Fellow by courtesy of the Johns Hopkins University, of Baltimore, an institution of learning bearing the highest of reputations. Mr. Scott has had some experience in politics, but was unsuccessful in securing political honors for himself, though as an active democrat he has contributed no little toward advancing the ambition of others. In 1872, as already stated, he was the democratic candidate for judge of the Northumberland district. Although the county was at the time understood to contain a reliable democratic majority, there were internal dissensions which resulted in sacrificing the greater part of the ticket, Mr. Scott included. His nomination for congress had an equally disastrous ending, as the district was hopelessly republican, although Mr. Scott succeeded in reducing the usual majority of nearly three thousand to less than twenty-four hundred. All who know him are convinced that he would have graced either position. As will be understood from what has been already told, Mr. Scott is a lover of books. He has done some traveling also, both at home and abroad, and from the two sources of information has acquired a wide knowledge of notable men and places and their history, which, with his remarkable powers of comparison and analysis, make him a delightful addition to any company. A store of anecdote and a ready repartee, with an equipment of facts and figures enabling him to enter into discussion upon almost any topic, make him welcome wherever those who know him meet for "feast of reason and flow of soul."

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The American Halseys are of English origin, and have been settled in America about two hundred and fifty years. The family in England is of considerable antiquity. It has been conjectured that the Alsis mentioned in the "Domesday Book" are the originals of the family. In the Conquerer's time (1066 to 1087) the Alsis possessed land in half the counties of his realm, and had representatives in each of the three great classes into which landed proprietors were divided by the compilers of the "Domesday Book." But it was several centuries after the Conquerer's time that the first indisputably genuine member of the family is known to have existed in England. This was John Hals, a man of considerable wealth and repute, who lived in the reign of Edward III. (1327 to 1377). He belonged, originally in Cornwall, and built, in the adjoining county of Devon, the ancient mansion of Kenedon, mentioned by Burke in his "Landed Gentry." Kenedon is contemporary with the great hall of William Rufus, otherwise known as Westminster Hall, of London, and with Windsor Castle. The reign of Edward is noted as having been a time of luxury and extravagant living. Many of the present architectural monuments of England belong to that reign. The passing of sumptuary laws became necessary. John Hals was one of the English judges of Common Pleas. His second son was Robert (or John), who added an E to his name, making it Halse. He was educated at Exeter college, Oxford, and became successively provost of Oriel, proctor of Oriel, prebendary of St. Paul's, and bishop of Litchfield and Coventry. He was present at the battle of Bloreheath, one of the engagements fought during the War of the Roses, and escorted from that field to Eccleshall, Margaret of Anjou, the queen of the imbecile Henry VI. Bishop Halse was eminent for promoting none but the best of his clergy. He died in 1490, and was buried in Lichfield cathedral. His consecration as bishop took place in St. Clement's church, Coventry. One of the direct descendants of John Hals returned to Cornwall in 1600, and purchased the estate of Fentongollon.

Hertfordshire at the present time contains, probably, the best known representatives of the family in England. Thomas Fred-

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erick Halsey, of Gaddesdon Place, near Hemel Hempstead, being now the member of parliament for that county. Gaddesdon Place was granted to William Halsey (or Hawse) by Henry VIII. and has ever since belonged to his descendants. William's great-grandson became Sir John Halsey. Thomas Halsey, in 1738, was high sheriff of Hertfordshire, and the same office was subsequently held by Charles Halsey. Frederick Halsey, who died in 1763, took part in England's continental wars in the middle of the last century. He was commissary general of the allied army in Germany, and was afterwards aide-de-camp to the hereditary Prince of Wolfenbuttle. He died at Hesse Darmstadt. His arms were: Arg. on a pile sable, three griffins' heads erased of the first. His crest was a dexter hand purp. sleeve, gr. cuff arg. holding small griffin's claw erased, or. His motto: *Nescit vox missa reverti.* The crest of John Hals was a griffin sejeant wings, endorsed or.

The first Halsey to arrive in this country from England, and the progenitor of Gaius Leonard Halsey, was Thomas Halsey, who settled at Lynn, Mass., as early as 1637, and who came from Hertfordshire. Like most other settlers of that town, he was a farmer. Large stocks of horned cattle, sheep, and goats were raised there, and for some years the settlers lived in an almost ideal state of democracy. Small as their community was, they held town meetings every three months. Their fire wood was cut in common, and for the grass in the meadows and marshes lots were drawn. Thomas Halsey possessed one hundred acres of land at Lynn. The period of his arrival there was one of intense religious agitation. The incident of Endicott and the Red Cross, so vividly related by Hawthorne, occurred in 1635. Thomas Halsey's stay at Lynn, was, however, of short duration. He was one of eight young Englishmen who, in 1640, purchased a ship, and, by permission of Governor Winthrop, set sail for Long Island with a view to settling there. They landed in Cow Bay, in what is now the town of North Hempstead, and purchased from James Forrett, the agent of Lord Sterling, a tract of land eight miles square. For the English claim they paid four bushels of Indian corn. To the Indians they gave clothing and other articles of civilized life. Soon after the arrival at Cow Bay the

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Dutchman of New Amsterdam laid claim to all the land in that neighborhood, and sent an armed body of men to enforce the claim. Obliged thus to depart, Thomas Halsey and his companions sailed for a harbor eighty miles to the east, where they planted a town, which, in memory of the English town from which they had sailed for the new world, they called Southampton. From the agreement which they drew up it might be imagined that these settlers fancied they were founding an independent commonwealth.

Thomas Halsey passed the remainder of his days at Southampton. Local historians say he had great influence among his companions and was endowed with the largest amount of worldly possessions. He was active in establishing the Connecticut system of jurisprudence, and in 1664 was chosen a representative. He built a house, which is said still to exist, on Main street. In 1874 it was owned by Thomas Nicholls White. Thomas Halsey's first wife was murdered by two Indians, who were promptly captured and executed. This was the only Indian murder committed in the Southampton colony. Thomas Halsey was a man of considerable force of character, of strong will, and appears to have been seldom much influenced or controlled by others. The Southampton town meetings on more than one occasion were marked by stormy scenes. He was censured in 1646 for "hindering the quiet proceedings of the court, and causing them to lose their time by his wilful obstinacy." For "the unjust charging of the court for justifying the actions of Mr. Howe," he was condemned to make public acknowledgements, and to pay a fine of five shillings. He refused to make this acknowledgement, and the fine was increased to forty shillings. A year later, at the general term of court, Mr. Halsey's fine was remitted. His will was probated in New York city in 1679. He left three sons and one daughter. The most of the Halseys now living in this country are descended from this stock. Many of them have never left Southampton. New York city and Brooklyn have seen a few. Others have settled in New Jersey. Tompkins county, in New York state, has a village called Halseyville. One of the Southampton daughters was married to a Conkling, from whom is descended Roscoe Conkling.

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Gaius Leonard Halsey belongs to the ninth generation in descent from Thomas Halsey, the line being: (1) Thomas; (2) Thomas; (3) Jeremiah; (4) Jeremiah; (5) Matthew; (6) Matthew; (7) Gaius; (8) Richard Church; (9) Gaius Leonard. The two Thomases ended their days at Southampton. Jeremiah (3) removed to Bridgehampton; Matthew (6) probably settled at Easthampton. Of Matthew (2) it is recorded that, in a winter of great severity, near the end of the last century, he skated across New York Bay, the Kill von Kull, and thence up Newark Bay to Newark city, where he visited the lady who subsequently became his wife. He was a soldier in the Revolutionary war, and while serving in Connecticut captured thirteen Hessians. For this exploit he was rewarded by the government with a vast quantity of depreciated Continental currency, the worthlessness of which embittered his after days. After the war, and after his children had been born, he emigrated to Springfield, Otsego county, New York, and thence to Howard, Steuben county, where he lived to be over ninety years of age.

The maiden name of Matthew Halsey's wife was Leonard. She became the mother of three children who reached mature age. The eldest was Rufus, who had a son Thomas and a son Jefferson. Thomas was the father of Mrs. Ami Gilchrist and of Victoria Halsey, both of whom are residents of this city. Matthew's second child was Harriet, and his third was Gaius. Gaius was born May 4, 1793, and received for his middle name his mother's name, Leonard, but he did not use the name Leonard—at least not within the life-time of his children. He gave the name however, along with his own, to his second son. The two names exist a third time in the subject of this sketch. Gaius studied medicine, and finally drifted away from the home at Howard and settled, first at Bainbridge, and then at Kortright Centre, Delaware county, where his children where born, where the remainder of his days were spent, and where he now lies buried. His second wife (Barbara Grant) to whom he was married a few years before he died, still lives at Hobart in the same county, and is the sole survivor of Gaius Halsey that now exists in Delaware. She never married again. Twenty years cover the period of Gaius Halsey's life at Kortright. They were eventful years to

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him and to his. But when the light of his life went out, in his forty-second year, his five children departed from the place never to return. The going of the Halseys from Kortright was as sudden and abrupt as had been their coming. Doctor Halsey's first wife, and the mother of his four children, was Mary Church, a daughter of Richard Billings Church, of Bainbridge, Chenango county, N. Y. The Churches in those and in after days were a numerous, industrious, and valient race in this part of Chenango county. Mary Church had at least five brothers: Warren, Wilson, Billings, Ira, and Levi; and at least two sisters, Rhoda, and Pamela. Pamela became the wife of Ezra Corbin, of Bainbridge, in the same county. Levi, Wilson, and Pamela Church lived to a ripe old age. They all died within the last five years. Richard Billings Church was born in 1768, and was the son of Timothy Church, of Brattleboro, Vt., who served in the war of Independence as a colonel, and after the war is said to have gone to Chenango county, N. Y., with his family, but to have returned subsequently to Brattleboro. His grave is at Brattleboro. He was the seventh of Nathaniel Church's thirteen children, and was born May 12, 1736, his mother being Rachel McCranney, of Springfield, Mass. Nathaniel's father was Samuel Church (born 1667) and Samuel's father was also Samuel Church (born 1640). The father of this Samuel was Richard Church. Samuel was Richard's fourth and last child. Richard was born about 1610, probably in England and of English parents, and was an early settler at Hartford, Conn. With his family he moved from Hartford to Hadley, Mass., in 1660, and seven years later he died. Hadley is eighteen miles distant from Springfield. This Richard Church is one of two Richard Churches who are prominent in the Church genealogy. The other Richard came to New England in 1630, when twenty-two years of age, and in 1632 moved to Plymouth, Mass., where he built a house of worship. The late Sanford E. Church, Chief Justice of the New York State Court of Appeals belonged to the Connecticut family—the same family as Doctor Gaius Halsey's wife.

Of Mary Church clear and deep impressions survive with all who knew her. She was a woman of strong personality and of great personal courage. To fear she was a total stranger. Her

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husband's regard for her—and Doctor Gaius Halsey was not a man easily swayed in his judgment by affection—may be learned from the eloquent and reverent epitaph which still remains where he placed it on her tombstone, under a grove of trees adjoining the house in Kortright Centre, where she lived and died:

"Beneath this stone rests all that was mortal of Mrs. Mary Halsey, wife of Dr. Gaius Halsey, who departed this life July 26, 1830, aged 35 years. May her infant children, arrived at more mature years, on visiting this spot, pledge their vows to Heaven to honor her memory by imitating her virtues."

Doctor Halsey lies at his wife's side in that isolated and solemnly silent burial field. Over his wife's grave he erected a stately monument of panelled brown stone, long and flat in shape, and covered by a marble flag bearing the inscription. His own grave was marked in the same manner by his children. To those who know what Kortright Centre was in those days—how it was cut off from the pulse of the world, these graves speak of Doctor Halsey's character. He was very much a law unto himself. Self-reliance was, perhaps, his chief quality. He was marked by nature for distinction, and yet he was content to dwell where distinction was forever an impossible thing to acquire. With strange self-abnegation, in this sterile and almost unpeopled solitude, he held up during a short life the torch of humanity and civilization. But to what really adequate end? To his children he was a stern parent, but he knew his duty to them in the matter of education. He found a teacher in the pastor of the local church; he had them taught Latin as well as the English branches, and he afterwards sent them long distances away for higher training. There is still preserved in the family a large mounted globe which he owned, as well as a complete set of Brewster's Edinburgh Cyclopedia—works which in those days it must have been no easy matter to procure. He had a wide local reputation for skill in surgery, and it is related of him that on one occasion when he had a particularly difficult case in hand he made a special trip to New York to purchase new instruments. On this trip he stopped at the Astor House, then just completed and the wonder of the town. The bill he paid subsequently became, at Kortright, a subject for some wonder. Above his office at Kortright was a room

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for his students—of whom he had many—who were instructed there in the art of dissecting. This room and the whole office building, as well as the dwelling house, remains to this day, scarcely altered from the appearance they had fifty years ago, when the fires of Doctor Gaius Halsey's life went out with untimely suddenness. In 1826, on the fiftieth anniversary of American independence, Doctor Halsey was chosen to deliver at Kortright Centre the oration of the day. From the surrounding country great throngs of people came to this celebration. It was probably the greatest event in the annals of the place, as it was the most memorable anniversary the nation had yet known. The oration was printed the following week in one of the county newspapers. A copy of that issue, still preserved in the family, has the oration printed with the news of the simultaneous death, on July 4, of Jefferson and John Adams, probably the two men who were then held in the highest veneration by the whole American people. In this address Doctor Halsey said of Washington, that he derived honor "less from the splendor of his actions than the dignity of his own mind." John Randolph was referred to, in parenthesis, as "the beardless man of Roanoke."

Four children were born to Doctor Halsey, three of them sons: Richard Church (born Bainbridge, N. Y. 1817), Gaius Leonard (born 1819), and Nelson Gaylord; and one daughter, Lavantia. The sons are all now living: Richard Church, a physician at White Haven; Gaius Leonard, also a physician at Unadilla, N. Y.; and Nelson Gaylord, a merchant at Kankakee, Ill. Lavantia became the wife of a physician (Doctor Goff) and at their home in the state of Illinois bore him several children. She died about fifteen years ago. The children are Lizzie, (now the widow of John J. Russel), Halsey, William, Leonard, and Mary. Nelson Gaylord's children (he married Miss Girard) are Helen, Winfield Scott, Nelson Gaylord, Rebecca, and one other. The children of Gaius Leonard, who married Juliet Carrington, are Francis Whiting, (born 1851, married Virginia Isabel Forbes), Frederick Arthur (born 1856), and Lavantia (born 1868). Richard Church has two children, Lavantia Harriet, and Gaius Leonard, the latter his first child, being the well-known lawyer of Wilkes-Barre, to whom is devoted this sketch. The maiden name of the mother of Mr.

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Halsey is Anna Sprowl, a member of the society of Friends, and a native of Kennett, Chester county, Pa. Richard Church Halsey studied medicine with his father, and in addition graduated at a medical college in the city of New York. His first location was at White Haven, but after a few years' residence there removed to Nesquehoning where the subject of this sketch was born. After a residence of four or five years at Nesquehoning, he removed again to White Haven where he has since resided.

Gaius Leonard Halsey was born July 12, 1845, at Nesquehoning, Carbon county, Pa. He was educated at the Wilkes-Barre academy, Liberal institute, at Clinton, N. Y., and Tuft's college, Medford, Mass., from which he graduated in 1867. During a portion of 1866 he taught school at Canton, Mass., and after graduation, one year in White Haven, Pa., where he now resides. In 1868 he went to Washington, D. C., and during the winter of 1868 and 1869 was engaged as a stenographer, and during a portion of the time did work for the late Oliver P. Morton, of Indiana, and John A. Logan, of Illinois. In 1869 and 1870 he was a stenographer for the *Legislative Record* at Harrisburg, Pa. In 1870 and 1871 he was assistant sergeant of arms in the house of representatives of Pennsylvania, and 1871 and 1872 was a transcribing clerk in the house of representatives. He studied law with Lyman Hakes and Charles E. Rice, and was admitted to the bar of Luzerne county, September 9, 1872. Mr. Halsey married April 17, 1882, Sarah Elizabeth Levan, a daughter of John W. Levan, of White Haven, Pa. They have two children, Anna Catharine Halsey and John Richard Halsey.

Mr. Halsey, as will be seen from the above, has not been long at the bar, but he has wisely utilized his time and achieved a prominent place in the profession. The young lawyer who is not inveigled into taking an active part in politics, is an exception to a very general rule. The profession is always in demand for service on the "stump" during campaigns, and for a time there is a sort of glory in that service, though it is a glory of which most men generally get a surfeit. From haranguing crowds at the cross-roads on the "great and undying fundamental doctrines of our glorious party," etc., etc., etc., to wanting an office is however a material and easy transition, and that is why it comes that

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in almost every list of aspirants for political position there is a goodly proportion of "limbs of the law." Fortunately the appetite is one that does not usually abide with its victims very long, for if it is not quenched, after a reasonable period of waiting, by the attainment of some "fat place" it is very likely to be, by the forced conviction that there are altogether too many applicants for the limited number of "fat places" to be divided, and that the time consumed in looking for comfortable provision at the public crib might be far more profitably employed in building up a practice. And it may be remarked here, parenthetically, of even those who do for a time succeed in office hunting, a not insignificant proportion generally end up, to use the expression of a knowing fellow practitioner as "politicians without a following, and attorneys without a clientage." We are led to these remarks by the recollection that Mr. Halsey has had many incentives to take a hand in active politics, but though an ardent republican, he has evinced little inclination to do so by wisely giving his time to his professional duties and to keeping himself well up with the decisions so as to be enabled to perform those duties thoroughly and acceptably to his clients. He is a gentleman of commanding presence and of never failing affability, advantages that are always of great consequence in professional life, and, being thoroughly well read, legally and generally, and willing to work, has a manifestly bright future before him.

Lyman Hakes Bennett was born in Harpersfield, Delaware county, N. Y., February 20, 1845. He is of Quaker parentage, and a descendant of Alden Bennett, a native of Rhode Island, where he was born April 24, 1754. His occupation was that of captain of a whaling vessel. He perished at sea in 1785, "vessel, crew, and cargo lost." His wife was Elizabeth Vail, who was born March 28, 1758. They were married at Stanford, Dutchess county, N. Y., in 1776, and had five children; four sons and a daughter. Alden Bennett, their youngest son, was a captain in the war of 1812, and was stationed at Plattsburg, N. Y., during that event. He was by occupation a manufacturer of agricultural

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implements. He died at New Haven, Oswego county, N. Y., September 25, 1854. He was twice married. By his first wife he had one son, D. M. Bennett, now residing at Saratoga, N. Y. He is an attorney and master in chancery. Isaac Bennett, second son of Alden Bennett, sen., was born in Dutchess county, N. Y., June 22, 1780. He married March 6, 1803, Anna Losee, daughter of Simeon and Miriam *nee* (Carpenter) Losee of Dutchess county, N. Y. She was born October 15, 1779. The year of their marriage they removed by means of an ox team and sled to Harpersfield, and settled on a farm at Quaker Hill (they being Quakers or Friends) in Harpersfield. With the exception of one family their nearest neighbors resided ten miles distant, and their nearest mill was twenty miles from their place of settlement. Isaac Bennett died March 30, 1812, and his wife died December 13, 1858. Mrs. Bennett was a woman of great energy of character, and after the death of her husband cleared and paid for the farm and educated her four sons. Alden I. Bennett, their third son, studied medicine in Kortright, N. Y., with Gaius Halsey, M. D., who was the grandfather of Gaius L. Halsey of the Luzerne county bar. He located at Nanticoke, Pa., in 1825, and was the first resident physician of that borough. He married in 1829 Mary Ann Bennett, daughter of Thomas and Mary Ann Bennett, (*nee* Espy) of Nanticoke. They removed to Boliver, O., in 1831. He was a member of the constitutional convention of Ohio in 1851. In 1853 they removed to Beloit, Wis. He was a state senator in that state when he died in 1862. He was a prominent candidate for the republican nomination for governor of the state. Two of his sons, Thomas and Phineas, served in the late civil war as lieutenants of Wisconsin regiments. Subsequently Thomas Bennett became chief clerk and then quartermaster, under General Sherman, of the military division of Mississippi. He married Jennie Ewing, daughter of Hon. James Ewing of Ohio. Joseph Bennett, youngest son of Isaac Bennett, was twice married and left three sons and three daughters. John Ira Bennett, one of the sons, is a prominent lawyer in Chicago, Ill., and is a master in chancery in the United States courts for the northern district of Illinois. At the opening of the late civil war Mr. Bennett was appointed with the rank of colonel on Gov-

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ernor Yates' staff, and devoted much of his time during the early part of the war to recruiting men. For these services he asked and received no compensation. He had a strong desire to enter actively into the service, but impaired health resulting from a protracted attack of typhoid fever, prevented him. While living at Galva, Ill., he became widely known as a public spirited man, and was honored with many public trusts. In the campaign of 1864 he was chosen as elector for the fifth congressional district on the republican ticket, and was elected, receiving the highest number of votes of any republican elector. He was afterwards a candidate for circuit judge of Henry and Rock Island counties, and although he carried his own county by a majority of one thousand votes, he was defeated by a small majority in Rock Island county, his opponent, George W. Pleasants receiving the election. He always took an active interest in educational matters, and for many years was a member of the board of education. He also edited the Galva *Union*, a newspaper of his town, and purchased and developed the coal mines at that place. Since settling in Chicago he has built up a wide and remunerative practice, and ranks among the most influential members of the Chicago bar, having associated with him his son Frank I. Bennett, a promising young attorney. Simeon Losee Bennett, eldest son of Isaac Bennett, was a farmer. He moved first to Illinois, then to Iowa, where he died September 13, 1873. Phineas Lounsbury Bennett, the second son of Isaac Bennett, was born in Harpersfield, February 15, 1806, and is still living. He is a farmer, and until recently resided on the paternal farm at Quaker Hill. In his youth and early manhood he taught school for ten or twelve years. In 1830 he was a teacher at Nanticoke, and resided with his brother Doctor Bennett. He is prominent in educational matters in Harpersfield, and for over thirty years has been school commissioner, superintendent of schools, and trustee of his school district. He was supervisor of his town in 1841 and 1842, and was elected a justice of the peace, but declined to act. For many years he was a director in the Stanford Fire Insurance company. He is the father of Lyman Hakes Bennett. The mother of Mr. Bennett is Minerva Hakes, daughter of the late Lyman Hakes of Harpersfield. Judge Hakes was a de-

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scendent of John Hakes, an early Puritan, who was a resident of Windsor, Conn., in 1643. The following among others were "householders and had seating in the meeting" at Windsor, January 18, 1659-60: William Hayden, the ancestor of Rev. Horace E. Hayden; John Hakes the ancestor of Lyman Hakes Bennett, Harry Hakes and Charles E. Rice; Simon Hoyt, the ancestor of ex-Governor Henry M Hoyt; John Osborn, the ancestor of E. S. Osborne; Jonas Enno, the ancestor of J. W. Eno, of Plymouth Joseph Loomis, the anccstor of W. W. Loomis; Thomas Ford, the ancestor of Mrs. B. F. Dorrance of this city, and Theodore Strong of Pittston; Matthew Grant, the ancestor of ex-President U. S. Grant, and Thomas Deble, the ancestor of ex-President Rutherford B. Hayes. Of the four sons of Judge Hakes, three became lawyers, Lyman, Harry and Harlo, and his two daughters each became the mother of a lawyer. Lyman Hakes Bennett, son of Minerva Hakes Bennett, and Lyman Hakes McCall, son of Caroline Hakes McCall, of Iona, Mich. Mr. Bennett worked on his father's farm until the age of twenty, doing the ordinary work of farmers' sons, and going to school when he could be spared from the plough. In 1865 he went to Cambridge, Henry county, Ill., and spent a year there as clerk in the office of the recorder and clerk of that county. In 1866 he went to Washington, D. C., and entered into government employment as a clerk in the second auditor's office. He remained in this position until 1872, when he came to Wilkes-Barre and entered the office of his uncle, Harry Hakes. He was admitted to the bar of Luzerne county, December 4, 1872. While in Washington Mr. Bennett entered the Columbia Law school, and graduated therefrom in 1870. He was in the class of George S. Ferris of the Luzerne county bar. Mr. Bennett has two brothers living, Alden J. Bennett, a banker at Virginia city, M. T., and Isaac Bennett, a farmer living near Binghamton, N. Y. His only sister is the widow of the late Rodney Dennis who was a prominent lawyer in Steuben county, N. Y. Mr. Bennett married June 2, 1874, Ella N. Robbins, daughter of Robert Robbins of Dodgeville, Ia. Her mother was Eleaner Houpt, a daughter of the late Philip Houpt of this city. They have two children living, Anna Minerva Bennett and Lillian Bennett.

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It is no reflection upon the personal appearance of Lyman Hakes Bennett to say that his looks are not nearly so suggestive of the lawyer as his name. Meeting him casually you would be disposed to regard him as too big for books and too fond of his ease to be energetic. But Mr. Bennett is, nevertheless, a very industrious and conscientious reader, and there are few attorneys at the bar so truly zealous and untiring in unraveling the intricacies of a cause given him to try, and bringing them within the light of the law. He is an examiner and master in chancery, and as such has solved many knotty problems in a manner testifying amply to his possession of great ability as a lawyer, and of a a judicial mind. His methods are those of the man who realizes that the profession of the law yields profit or fame to nothing less than hard, willing, and unremitting work, and uniting with this wise conviction, a giant's frame and iron constitution, he has bent himself to just that kind of work. There is, in fact, no more indefatigable toiler at any bar in the state. Such men must succeed. Socially Mr. Bennett is a prime favorite with those who really know the man. Behind his brawny exterior is an unwavering good nature and disposition to any rational recreation and enjoyment that make his few intimate friendships very warm ones. He takes little interest in politics beyond keeping himself at all times well informed upon, and capable of intelligently discussing, the questions of the hour. A lawyer devoted to his profession and dependent upon it has no time for more.

BOOK NOTICE.

AN ALPHABETICAL AND ANALYTICAL INDEX TO THE PENNSYLVANIA SUPREME COURT REPORTS. 1st Dallas to 5th Outerbridge. By Robert E. Wright, late State Reporter. In two volumes. Philadelphia: Rees Welsh & Company, 1884.

"The first volume of the above work is issued, and extends from letter A to J. What we may call the first edition came out in 1874, and included the State Reports up to 20th P. F. Smith. It was followed in 1877 by an Index on the same plan of the Pennsylvania Reports outside of the Supreme Court. The pre-

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sent re-publication of the work includes the State Reports only, and indexes them down to the last volume. The general plan pursued is the same as in the edition of 1874, except the very important improvement is introduced of citing the cases by *name* as well as by book and page. It will be remembered that in the first edition the latter was the method of citation. The divisions and sub-divisions have been multiplied and rearanged in such a way as to facilitate access to the rulings of the court, and in every way this useful key to the Reports has been amplified and improved. The two volumes of Pennypacker's Reports, and the two of Pearson's Reports, are included in this edition; the latter because of the peculiar jurisdiction conferred on the Common Pleas of Dauphin county in relation to commonwealth cases. The present (first) volume contains over eight hundred pages, and includes many of the most important heads of legal inquiry, viz.: Account, Assignment, Attachment, Bills and Notes, Contract, Corporation, Decedent, Ejectment, Equity, Executors, Fraud, and numerous others, as to which the profession is daily seeking authorities. The second volume is promised very shortly.

"To those who may be unfamiliar with the work, it may be explained that this is not a digest, but a classification of the cases under the proper heads of subject matter and their minute subdivisions, thus furnishing a ready key to the examination of the decisions on any given point. The practical value of such a plan depends upon the care and thoroughness with which the subdivisions are made and the cases collected, and from our examination of the work in question it would appear that it is well done. The cases are grouped chronologically, so that a glance will show the last decision upon a given subject."

The above is from the *Legal Intelligencer* in a review of the work. We have made a careful examination of the book, and find in it no material errors, which we regret to say existed in the first edition, published in 1874. We have no hesitation in saying that no labor-saving work of recent date is equal to this book, and we advise our readers to purchase it at once.

ALDEN'S LITERARY REVOLUTION.

John R. Alden's *Literary Revolution*, though, possibly, not making so large a "noise" in the world as three or four years ago when its remarkable work was *new* to the public, is really

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making more substantial progress than ever before. A noticeable item is the improved quality of the books issued. Guizot's famous "History of France," not sold, till recently, for much less than $50.00, is put forth in eight small octavo volumes, ranking with the handsomest ever issued from American printing presses, including the 426 full page original illustrations, and is sold for $7.00. Rawlinson's celebrated "Seven Great Monarchies of the Ancient Eastern World," is produced in elegant form, with all the maps and illustrations, reduced in price from $18.00 to $2.75. These are but representative of an immense list of standard works, ranging in price from *two cents* to nearly $20.00, which are set forth in a descriptive catalogue of 100 pages, and which is sent free to every applicant. It is certainly worth the cost of a postal card to the publisher, John B. Alden, 393 Pearl street, New York.

This issue closes volume XIII. There will be no index or table of contents at the end of this volume, but we will adopt the plan followed by us at the end of volume XI. On the completion of volume XIV., or soon thereafter, we will furnish a complete and perfect index and syllabi of cases to volumes XIII. and XIV., such as the index to our latest volumes. We have taken this step after consultation with numerous members of the bar, who prefer to have a perfect index. We would advise our subscribers to look over their numbers (the price of each number being ten cents) and if any are missing to notify us at once, so that we can supply them, as it is much easier to do so now than a year hence. We respectfully request all parties indebted to us, who have received repeated statements of accounts, to send us a remittance at their earliest convenience. Those who impose the necessity of sending so many bills ought to consider that without regular payments we cannot satisfactorily conduct our paper, and they should not put us to the inconvenience and annoyance of these perpetual applications. Owing to the smallness of the amount many neglect, but this is fatal to us. When these items are multiplied they represent a sum of great importance.

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HERIFF'S SALES.

Abstract of property to be sold by J. S. Oberren- Sheriff of Luzerne county, on Saturday, January , A. D. 1885, at 10 o'clock A. M., at the Arbitration 1, in the Court House, Wilkes-Barre, who will eed with the different properties in the order in h they are numbered, to wit:

1

it of use of First National Bank of Pittston v. Tompkins. Dickson & Atherton, Att'ys.

All that lot of land in the borough of Pittston ded southeasterly by the main traveled road leading gh Pittston, thence along lands of J. E Patterson others in a northerly direction to a stone, thence g said Patterson and others 151 feet to a stone cor- thence about 114 feet to the main road aforesaid e place of beginning; all improved with a 2-story ling about 90x35 feet with lean-to and 1-story en- house and boiler house, also 1 2-story dwelling ddition and 1 1-story dwelling.

All the following lot of land in the borough of ton, beginning at a corner in the westerly side of n street at a corner of lands now or late of the heirs oger Searle (now in the possession of the Elmira Company), thence along said Searle's land in a hwesterly direction 190 feet or thereabouts to the of the North Branch Pennsylvania Canal, thence g said canal in a northerly direction 250 feet to cor- of Thomas L. Hughes, thence along said lot in an erly direction 144 feet to Main street, and thence southerly direction along said Main street to the e of beginning; containing 1 acre more or less; All roved with a 1½-story building about 48x54 feet lean-to, gas boiler and engine house, bake oven piling sheds.

2

uit of Conrad Croph v. Henry Grover.
Payne, Att'y.

All that lot of land in the township of Hollenback nning at a stone on the public road in line of land te John Mowrey, thence by said road 4 4-10 perches stone in line of land late of Jacob Hippensteel, ice by the same 17 9-10 perches to a stone in line and late of Barnet Whitebred, thence by the same 10 perches to the said line of said John Mowrey, ice by the same 18 2-10 perches to the place of be- ning; containing one-half acre of land, strict mea- ; all improved, having erected thereon 1 2-story lling house, 1 2-story storehouse with hall in upper y, warerooms, etc., one stable, lot of fruit trees other outbuildings.

All that lot of land in the town of Hobbie and town- of Hollenback beginning at a stone in the centre he road leading from said town to Harter's Mill, eet from the northwestern corner and 31 feet from southwestern corner of the dwelling house of Henry ver, thence by land of Jacob Hippensteel 10 perches 1 link, thence by same 4 perches to a stone, thence same 10 perches and 1 link to a stone in said road, nce on said road 4 perches to the place of beginning; taining one-fourth of an acre of ground, strict mea- e; all improved, having erected thereon 1 2-story se with cellar basement, 1 stable, 1 wagon shed, lot fruit trees, and other outbuildings.

All that tract of land in Hollenback township be- ning at a stone corner, thence along land late of derick Shortz 31 perches to stones, thence by the e 39 6-10 perches to stones, thence by land late of iah Stiles 31 6-10 perches to a stone corner, thence lands of said Isaiah Stiles 97 4-10 perches to a stone ner, thence along lands of Isaiah Stiles 32 8-10 ches to a stone corner, thence by land of said Fred- k Shortz 26 6-10 perches to a stone, thence by the e 16 8-10 perches to a stone corner the place of be- ning; containing 25 acres and 7 perches, strict mea- e; all improved, having erected thereon 1 log house, g barn, 1 stable, 2 apple orchards and other fruit es.

3

uit of Charles Lehman, assigned to R. D. Lacoe, Alva Tompkins. Richards, Att'y

All the following lot of land in the borough of West ttston, beginning at a corner in the southerly line of ontgomery street, and at the corner of lot of the estate of William Haston, deceased, thence along said Haston lot 200 feet to lands of the West Pittston Coal Company, thence long said lands 85 feet to lot contracted to Dennis Harris, thence along said lot 200 feet to Montgomery street, and thence along said street 85 feet to the place of beginning; containing 1,700 square feet of land more or less.

4

Suit of Abram Nesbit, trustee, v. A. Charles Naugle.
Shonk, Att'y.

All the surface of that lot of land in Plymouth beginning at a corner on Elm street, thence along a lot sold to Nathan Wandell 105 feet to a corner, thence along land lately owned bo Johg B Smith 51 5-10 feet to a corner, thence 92 feet to a corner, thence along said Elm street 50 feet to the place of beginning; containing 4,800 square feet of surface more or less; excepting and reserving all the coal and minerals; all improved with 2 double 2-storied frame dwelling houses, outbuildings, and fruit trees thereon.

6

Suit of Empire Building and Loan Association v. Thomas G. Davies and Mary S. Davies.
Wheaton, Att'y.

1. The surface of all that lot of land in the city of Wilkes-Barre, beginning at a corner on the northwest side of Sherman street 245 feet northeast from Market street, thence along Sherman street 80 feet to lot No. 30, thence along the same 190 feet to an alley 20 feet in width, thence along the same 80 feet to lot No. 32, thence along the same 190 feet to the place of beginning, being lots Nos 31 and 31½ in block No. 3; all improved with 2 2-story frame dwelling houses, with 1-story back kitchen attached, also a frame barn, fruit trees and other outbuildings thereon.

2. The surface of all that lot of land in the city of Wilkes-Barre, beginning at a corner of lot No. 8 on southwest side Market street 208 feet southeast from Hancock street, thence along Market street 40 feet to lot No. 10, thence along the same and line of lot No. 12 140 feet to an alley 10 feet in width, thence along the same 40 feet to lot No. 8, thence along the same 140 feet to the place of beginning, being lot No. 9 in block No. 8; all improved with 1 2-story and basement double frame dwelling house or block, 1 2-story frame barn, a 1-story frame kitchen, fruit trees and other outbuildings thereon. 51-1

And on January 17th, 1885, at 10 o'clock A. M., the said Sheriff will sell the following:

1

Suit of Peter Hoffman v. C. I. Widger.
Cannon, Att'y.

All that tract of land being No. 33 in the second division of Salem, beginning at a corner, thence by lot No. 34 302 5-10 perches to a corner, and thence by a part of the third division lot No. 53 75 perches to a corner, thence by Salem and Berwick township line 302 5-10 perches to a corner, and thence by the third division 83 perches to the beginning; containing 133 acres, 120 perches and allowance; partly cleared and improved with a large 2-story frame building, a large barn, other small outbuildings, fruit trees, etc.

2

Suit of J. M. Courtright, Treasurer of the Mechanics' Building and Loan Association, v. Oscar J. Harvey.
Halsey, Att'y.

1. All that piece of land in the city of Wilkes-Barre on the southerly side of Union street, between Franklin and Main streets, bounded northerly by said Main street, easterly by lot of George B. Kulp, southerly by land of the estate of E. B. Harvey, deceased, and J. A. Hutchins, and westerly by lots of J. A. Hutchins and J. M. Courtright; being improved with a double brick dwelling house, a large single brick dwelling house, and outbuildings.

2. All that piece of land in the city of Wilkes-Barre on the easterly side of Franklin street bound westerly by Franklin street, northerly by lot of J. A. Hutchins, land of E. B. Harvey estate, George B. Kulp, and estate of H. B. Hillman, easterly by lot of estate of G. B. Nicholson, deceased, and southerly by lot of R. R. Morgan; having erected thereon a double brick dwelling house with frame addition, frame barn and outbuildings.

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3. All that piece of land on the north side of Franklin street, city of Wilkes-Barre, beginning at the centre of the brick wall (on the west side) of Stewart Pearce's office (said office being on a part of this lot sold by Anning Dilley to Stewart Pearce) on said Franklin Street, thence through the centre of said brick wall back to the back end of the said lot to lot of J. M. Courtright 145 feet, more ar less, thence along the line of said Courtright's lot and towards Market street to lot now occupied by Theron Burnet 33 feet, more or less, thence along the back end of said Burnet's lot the full width thereof to line of lot of James F. Dennis, thence along said lot of said Dennis to corner of said Dennis lot and this lot, thence along the said Dennis lot towards Franklin street to corner of said Dennis lot and this lot, thence along said Dennis lot to corner of lot of J. J. Dennis estate and this lot, thence along the said J. J. Dennis lot to Franklin street 64 feet, more or less, thence along Franklin street to place of beginning; improved with a 2-story brick building erected thereon used and occupied for law offices, and other improvements.

4. All that lot of land on the flats in the township of Plymouth, being part of lot No. 9 in the upper tier of meadow lots in said township. and beginning in the road which divides the townships of Kingston and Plymouth at a corner between Nos. 9 and 10, thence along the line of No. 10, lately owned by Ziba Hoyt, 105 perches, more or less, to the Susquehanna river, thence down said river 25 7-10 perches, thence by a part of same lot now or lately owned by Elisha Loveland about 103 4-10 perches to the aforesaid road, thence along the said road 25 4-10 perches, or thereabouts, to the place of beginning; containing 16 acres and 65 perches of land, more or less.

5. All that piece of land in Kingston township, being 2 acres, strict measure, lying on the main road running from Wilkes-Barre to Kingston and extending thence along lands late of G. M. Hollenback about 29 perches to lands of Louis Hoyt and of sufficient width to make said 2 acres strict measure; excepting and reserving therefrom all the anthracite or stove coal, except sufficient to afford a perfect support to the surface thereof; improved with a frame building used as an oil house.

3

Suit of Martha E. Moore to the use of the Scranton Savings Bank v. Owen Corbitt. Price, Att'y.

The surface of all that lot of land in the city of Wilkes-Barre on Maxwell street, being 50 feet in width front and rear, and 150 feet in depth, with 12-feet alley in rear, being lot No. 90 on map of the Kidder lots, with a 2-story frame dwelling house, together with fruit trees and outbuildings thereon; coal reserved.

4

Suit of the School District of Plymouth Township v. John McAnany, Charles Hutchinson, and Terrence McCann. Shonk, Att'y.

1. All that lot of land in Plymouth township bounded on the northeast corner of farm of George W. Woodward, deceased, and fronting on Blindtown road 50 feet running back 150 feet to an alley 20 feet wide, being 50 feet in front and 150 feet deep; containing 7,500 square feet of land, being lot No. 14 on plot of George W. Woodward, deceased; all improved with one large 2 story frame building 50x24 feet, used as a store and dwelling house, with a frame kitchen 18x18 feet attached, 1 large double frame dwelling house 28x32 feet, and outbuildings thereon.

2. All that lot of land in Plymouth township beginning at a corner on the northeasterly side of Plymouth road that runs from Payne's corner, thence along said road 50 feet to a corner, thence north 150 feet to a corner, thence 50 feet to a corner, thence 50 feet to the beginning; containing about 7,500 square feet of land, being lot No. 11 on plot of George W. Woodward, deceased; all improved with 2 2-story frame dwelling houses 32x28 feet, each, with coal house, and other outbuildings thereon.

3. All that lot in Plymouth township beginning at corner on the northeasterly side of the Plymouth road that runs from Payne's corner, thence along said road 50 feet to a corner, thence 150 feet to a corner, thence 35 feet to a corner, thence 150 feet to the beginning; containing about 6,300 square feet of land, being lot 12 on plot of George W. Woodward, deceased; all improved with 1 double 2-story frame dwelling 28x32 feet, 1 carriage house, and other outbui thereon.

4. All that lot in Plymouth township beginning corner on the southerly side of the Plymouth road runs from Payne's corner, thence along said road feet to a corner on the Blindtown road, thence the southwesterly side of said Blindtown road 150 to a corner, thence 60 feet to a corner, thence 15 to the place of beginning; containing 9,000 square of land, being lot No. 13 on plot of George W. W ward, deceased; all improved with 1 large frame hotel known as the Phœnix Hotel.

5. All that lot in Plymouth township beginning corner on a new road laid out by Andrew Hu thence along said road 46 feet to a corner on said thence 78 feet to a corner, and thence 190 feet beginning, being lot No. 20 on plot of lots laid Andrew Hunlock; all improved with 1 2-story dwelling, a small barn, and outbuildings the

6. All that certain farm in the township of Hu bounded on the east by lands of Andrew Sorber the West by lands of Avey Ackley, on the nort lands of William Croop, and on the south by lan William Turpin; containing 130 acres of land, m less, with a 2-story frame house, barn, blacksmith outbuildings, and two apple orchards thereon.

ESTATES TO BE AUDITED BY T Orphans' Court of Luzerne county. Not hereby given that accounts have been filed and firmed absolutely by the court in the following est

1. James Ely; John Bartholomew, executor; January, 1885.

2. P. E. Depuy; R. D. Lacoe, administrator; January, 1885.

3. Martin Murphy; Thomas Maloney and Th Murphy, executors; 14th January, 1885.

4. Martin Kennedy; James O'Donnell, admin or; 14th January, 1885.

5. Richard Dearie; George Dearie, administr 15th January, 1885.

6. E. M. Clark; C. E. Hungerford, administr 15th January, 1885.

7. John Specht; Barbara Specht, administra 16th January, 1885.

8. George Smilnuk; Andrew Berkley, admin tor; 16th January 1885

9. Elizabeth B. Ashelman; Peter Ashelman, ex tor; 16th January, 1885.

10. Jonathan R. Williams; Lillie Williams, ad istratrix; 19th January, 1885.

11. Joseph Hawk; George W. Drum, administra 19th January, 1885.

12. Philip Houpt; M. B. Houpt, executor; January, 1885.

13. Barney Hunsinger; Samuel Benner, admin tor; 20th January, 1885.

14. Nicholas Hildebrand; George Hildebrand, ecutor; 20th January, 1885.

15. Ellen Taylor; P. C. Wadsworth, trustee; January, 1885.

16. Stephen Mellick; P. C. Wadsworth, exec 21st January, 1885.

17. Catharine May Snyder; B. M. Espy, admin tor; 21st January, 1885.

The accounts enumerated and designated in above list will be audited by the court, in the C House, in the Orphans' Court room, during the se of court on the days set forth opposite the name of estate, at which time all persons interested shall att if they see fit, and present their claims against estate, or forever thereafter be debarred from co upon said fund.

JOSEPH HENDLER,
Clerk O. C

52-2

WILLIAM S. McLEAN,

ATTORNEY AT LAW,

WILKES-BARRE, P

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DMINISTRATOR'S SALE.

Estate of P. V. Wambold, late of Kingston ough, Luzerne county, deceased By virtue of an er of the Orphans' Court of Luzerne county to me ected, I will expose to public sale on the premises, Saturday, January 10, 1885, at 2 o'clock P. M., the owing real estate, being two lots of land in Kingston ough:

The first thereof beginning on the main road leading Wyoming on east side at corner of land sold to Wi- n Church, thence along said street 60 feet to line of igston farm, thence by the same 181 5-10 feet to a ner, thence along same 60 feet to a corner on said arch lot, thence by the same 181 5-10 feet to begin- g; containing about 10,890 square feet of land; all proved with a 2-story wood store and dwelling com- ed, 1 shop, and 1 3-story wood workshop and barn ached thereon.

The second thereof beginning at a corner on main d leading to Wyoming on east side, at corner of lot d R. H. Tubbs, thence by said main road 60 feet to d of Mrs. John D. Hoyt, thence by the same 181½ t to a corner on the Rutter farm, thence by the same feet to a corner on said lot of R. H. Tubbs, now s. W. G. Colley, thence by the same 181 feet to be- ning; containing 10,890 square feet of land; all im- ved with 3 separate wood shops, houses or buildings reon.

TERMS OF SALE—One-third down, 25 per cent. of ance on confirmation of sale and delivery of deed, d the balance, with interest from confirmation, one ar from day of sale, or sooner if purchaser desires. ferred payments to be secured by bond and mort- ge on the premises.

C. A. WAMBOLD,
H. B. PAYNE, Administratrix.
Attorney. 50-52

UDITOR'S NOTICE.

In the Court of Common Pleas of Luzerne unty. No. 120 April Term, 1859. In Re D. S. Kid- r. The undersigned, an auditor appointed by the urt of Common Pleas of Luzerne county to pass on the exceptions filed to the account of Joseph own, committee in above stated case, and make stribution of the moneys found to be in the hands of id committee to and among the parties entitled ereto, and make report thereof, hereby gives notice at he will attend to the duties of his appointment at s office, No. 5 Equity Place, on Franklin street in e city of Wilkes-Barre, on Friday, January 9, 1885, 10 o'clock A. M., at which time and place all parties terested are notified to appear and present their aims, or else be debarred from coming in on said fund.

EDWIN SHORTZ,
-1 Auditor.

NOTICE IS HEREBY GIVEN THAT AN application will be made to the Court of Com- on Pleas of Luzerne county, on Monday, the 19th ay of January, A. D. 1885, at 10 o'clock A. M., under ie Act of the General Assembly of the Common- ealth of Pennsylvania, entitled "An Act to Provide r the Incorporation of Certain Corporations," ap- roved April 29, 1874, and the supplements thereto, r the charter of an intended corporation to be called ie "Wyoming Council No. 172 of the Order of the nited American Mechanics, of Pittston, Pa." The haracter and object of said corporation are charity, obriety, and benevolence.

F. C. MOSIER,
1-1 Solicitor.

IN THE ORPHANS' COURT OF LUZERNE county. In Re estate of William Masterson, de- eased. Now, November 29, 1884, on motion of D. V. Connolly and Davis, attorneys for J. J. Cum- niskey, administrator of said deceased, court grant ule on Mary Masterson, widow, and Edward Master- on, heir of William Masterson, deceased, both resi- lents of Shenandoah, Schuylkill county, Pennsylva- nia, to show cause why said administrator shall not be lischarged from further acting as administrator of said estate. Returnable December 27, 1884.

50-52 BY THE COURT.

IN THE COURT OF QUARTER SESSIONS of Luzerne county. No. 255 September term, 1884. In Re election district in the borough of Hazleton. Notice is hereby given that the report of the Commissioners in the above stated case has been filed with the Clerk of the Court of Quarter Sessions, and was confirmed nisi by the court on the 9th day of December, 1884, and that said report will be confirmed absolutely by the court unless exceptions thereto be filed not later than the third day of the next term of said court.

L. K. STRENG,
C. W. KLINE, Clerk Q. S.
Attorney. 50-52

NOTICE IS HEREBY GIVEN THAT AN application will be made to the Governor of the state of Pennsylvania, under the Corporation Amendment Act of one thousand eight hundred and eighty-three, for the amendment of the charter of The Plain-Dealer Printing Company, the character and object of said amendment being to change the name of the said corporation to The Economic Printing Company, and to increase the capital stock to $10,000.

JOHN S. HARDING,
50-52 Solicitor.

ORPHANS' COURT SALE.

In Re estate of Nicholas Gerlitz, deceased, In partition. By virtue of an order of the Orphans' Court of Luzerne county the undersigned will expose to public sale, on the premises, on Friday, January 9, 1885, at 10 o'clock A. M., all that piece of land in the city of Wilkes-Barre beginning at a corner on the north side of Main street and lot owned late by Jacob Flickner, and running back along the line of the said Flickner's lot 140 feet to a corner and another tier of lots, thence on a line parallel with said Main street 45 feet to a corner and lot late of Wartman & Company, thence along the line of the said Wartman & Company's lot 140 feet to a corner on said Main street, thence along the line of the said Main street 45 feet to the place of beginning; containing 5,300 square feet of land, more or less; all improved with 2 2-story frame houses and outbuildings, embracing also the title to the coal under the land.

TERMS OF SALE.—$500 cash down, one-half of balance, with interest on the whole sum unpaid, on the day of the confirmation of sale, and the balance, with interest thereon, one year from the day of confirmation of sale; deferred payments to be secured by bond and mortgage.

F. J. SCHWAB,
GUSTAV HAHN, Executor and Trustee.
Attorney. 51-1

ORPHANS' COURT SALE.

Estate of Richard Knouse, deceased. By virtue of an order of the Orphan's Court of Luzerne county, there will be exposed to public sale, on the premises in Butler township, on Saturday, January 3, A. D. 1885, at 1 o'clock P. M., the following real estate:

1. All that lot of land in the township of Butler beginning at a stone corner in public road, thence 12 3-10 perches to post, thence by land of John Gohn 13 1-10 perches to a post, thence by same 12 3-10 perches to a corner in public road, thence along said road 13 1-10 perches to the place of beginning; containing 1 acre; all improved with a 1½-story plank dwelling house and small outbuildings thereon.

2. The second lot is situated in Butler township, bounded on the east by a private road and land of Adam Smith, on the North by land of said Adam Smith, on the west by land of Conrad Sondrock, and on the south by lot of Polly Crissinger; containing 1 acre more or less; all improved with no building thereon.

TERMS OF SALE.—One-third cash on day of sale, one-third on confirmation of sale, and balance with interest from confirmation of sale, and balance in six months from day of sale, deferred payments to be secured by bond and mortgage.

HENRY GILMORE,
H. B. PAYNE, Administrator.
Attorney. 51-1

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WIDOWS' APPRAISEMENTS.

Notice is hereby given to all persons concerned, that widows' appraisements in the following estates have been approved nisi by the Orphans' Court of Luzerne county, and, unless exceptions are filed, will be presented for final approval on Monday, the 12th day of January, 1885:

Henry Brown, Samuel Whitebread, Rodman C. Browning, Owen Finnerty, Obed B. Fear, Peter Beisel, Abraham Dewitt, Joseph B. Ross, John Chrostwait, and D. S. Bennet, deceased.

JOSEPH HENDLER,
52-2 Clerk O. C.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Philip Brener, and that said license will be asked for in the court aforesaid, on Monday, January 26th, 1885, at 10 o'clock A. M.

S. J. STRAUSS,
51-52 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle with a horse and wagon has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by M. L. Brener, and that said license will be asked for in the court aforesaid, on Monday, January 26th, 1885, at 10 o'clock A. M.

S. J. STRAUSS,
51-52 Solicitor.

NOTICE IS HEREBY GIVEN, THAT AN application for a license to peddle on foot has been filed in the office of the Clerk of the Court of Quarter Sessions of Luzerne county by Abraham Simon, and that said license will be asked for in the court aforesaid, on Monday, January 26th, 1885, at 10 o'clock A. M.

ABRAHAM SIMON,
51-52 Solicitor.

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ESTATE OF A. A. LAPE, LATE OF NANTICOKE, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

FRANCES V. LAPE,
HAKES & ESPY, Nanticoke, Pa.
Attorneys. 52-5

ESTATE OF WILLIAM V. THOMAS, LATE of Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands, to present the same, without delay, to

J. R. JONES,
T. R. HUGHES, Wilkes-Barre, Pa.
Attorney. 52-5

ESTATE OF SARAH C. WARNER, LATE OF Pittston, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

DANIEL WARNER,
T. R. MARTIN, Hunlock's Creek, Pa.
Attorney. 52-5

ESTATE OF ELIJA KRICKBAUM, LATE OF Huntington township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

A. B. KRICKBAUM,
47-52 Town Hill, Pa.

ESTATE OF THEODORE KRAMPITS, LATE of Nanticoke, deceased.

Letters of administration *de bonis non* upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

F. J. HELFRICH,
W. S. McLEAN, Wilkes-Barre, Pa.
Attorney. 51-4

ESTATE OF ABRAM DE WITT, LATE OF Franklin township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

V. L. LEWIS.
L. W. DE WITT, Exeter Pa.
Attorney. 50-3

ESTATE OF OWEN DONOHUE, LATE OF Foster township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SAMUEL B. PRICE,
50-3 Upper Lehigh Pa.

ESTATE OF SARAH MYERS, LATE OF Newport township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARRIET FAIRCHILD,
B. M. ESPY, Alden, Pa.
Attorney. 47-52

ESTATE OF JOSEPH B. ROSS, LATF OF Franklin township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHARLES FRANTZ,
L. W. DE WITT, Orange, Pa.
Attorney. 50-3

ESTATE OF SHERIDAN WOODRING, LATE of Butler township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

SUSANNA WOODRING,
STEPHEN WOODRING,
E. P. KISNER, Drums, Pa.
Attorney. 51-4

ESTATE OF SAMUEL WHITEBRED, LATE of Hollenback township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JOHN P. WHITEBRED,
W. S. McLEAN, Hobbie, Pa.
Attorney. 47-52

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ESTATE OF FRANK L. SNYDER, LATE OF Dallas, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CORA L. SNYDER,
48-53 Dallas, Pa.

ESTATE OF JOHN POLSUE, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

HARRIET A. POLSUE,
D. M. JONES, Wilkes-Barre, Pa.
Attorney. 48-53

ESTATE OF ADAM BACHMAN, LATE OF Hazleton, deceased.

Letters of administration, *cum testamento annexo*, upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHRISTIAN BACHMAN,
49-2 Hazleton, Pa.

ESTATE OF PETER BEISEL, LATE OF Butler township, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

BARBARA BEISEL,
47-52 Drums, Pa.

ESTATE OF NICHOLAS SCHILLINGER, late of Wilkes-Barre, deceased.

Letters of administration, *de bonis non*, upon the above named estate having been granted to the undersigned, all persons having claims against the same will present them for payment, and those indebted thereto will please make immediate payment to

ALEXANDER MITCHELL,
G. L. HALSEY, Wilkes-Barre, Pa.
Attorney. 50-3

ESTATE OF ELLEN D. COOLEY, LATE OF Wilkes-Barre, deceased.

Letters of administration upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

E. P. DARLING,
49-2 Wilkes-Barre, Pa.

ESTATE OF BARBARA HEIBEL, LATE OF Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

PHILIP G. KILIAN,
EDWARD S. MILLER,
GUSTAV HAHN,
Attorney. 50-3

ESTATE OF JOHN JACOB DuBOIS, LATE of White Haven, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CATHARINE A. DuBOIS,
EDWIN SHORTZ, White Haven, Pa.
Attorney. 50-3

ESTATE OF JOSEPH B. EDWARDS, LATE of Lehman township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

R. A. WHITEMAN,
51-4 Lehman, Pa.

ESTATE OF JOHN P. NULTON, LATE OF Franklin township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ISAAC L. NULTON,
L. W. DE WITT, Lehman, Pa.
Attorney. 51-1

ESTATE OF CATHARINE, TREFFEISEN, late of Pittston, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

CHRISTIAN TREFFEISEN
GUSTAV HAHN, Pittston, Pa
Attorney. 48-53

ESTATE OF THOMAS FARRALL, LATE OF Wilkes-Barre, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

H. H. DERR,
H. A. FULLER, Wilkes-Barre, Pa
Attorney. 48-53

ESTATE OF CATHARINE McGUIRE, LATE of Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and thrse having claims or demands to present the same, without delay, to

JOHN GORMAN,
49-2 Hazleton, Pa.

ESTATE OF PETER HOLMAN, LATE OF Hazle township, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

JAMES HOLMAN,
C. W. KLINE, Hazleton, Pa.
Attorney. 47-52

ESTATE OF JAMES COWANS, LATE OF Hazleton, deceased.

Letters testamentary upon the above named estate having been granted to the undersigned, all persons indebted to said estate are requested to make payment, and those having claims or demands to present the same, without delay, to

ROBERT COWANS,
C. W. KLINE, Hazleton, Pa.
Attorney. 48-53

W. S. PARSONS,
ALDERMAN,
WILKES-BARRE, PA.

CHAS. D. FOSTER,
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WILKES-BARRE, PA.

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